

***United States Court of Appeals
for the
District of Columbia Circuit***



**TRANSCRIPT OF
RECORD**

JOINT APPENDIX

IN THE

United States Court of Appeals

FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 18,104

925

SHEBOYGAN COUNTY, a municipal corporation, Petitioner,

v.

CIVIL AERONAUTICS BOARD, Respondent.

MANITOWOC COUNTY, a municipal corporation, Intervenor.

United States Court of Appeals
for the District of Columbia Circuit

FILED JAN 24 1961

Nathan J. Paulson
CLERK

ON PETITION FOR JUDICIAL REVIEW OF ORDERS

OF THE CIVIL AERONAUTICS BOARD

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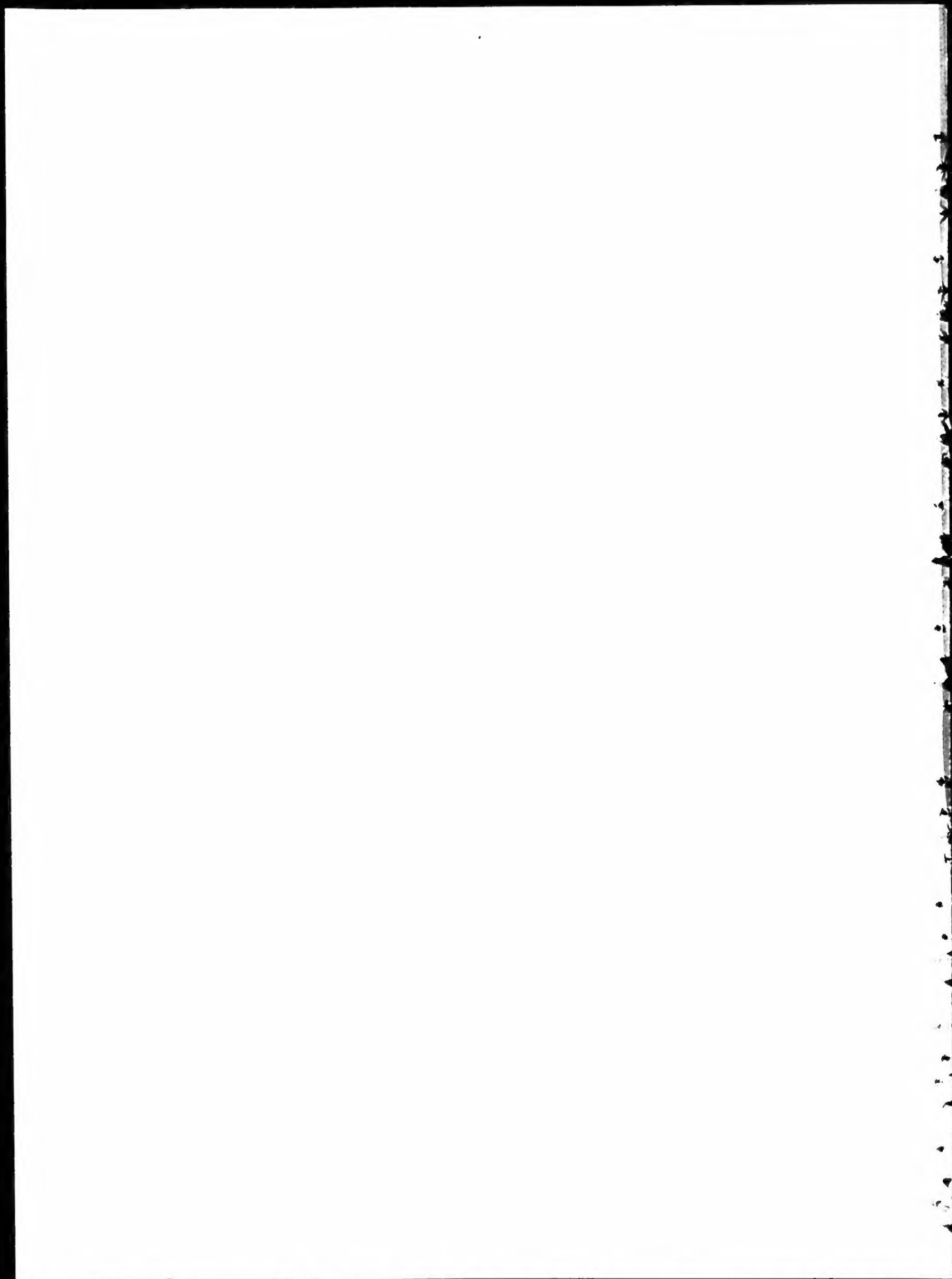
ON PETITION FOR JUDICIAL REVIEW OF ORDERS
OF THE CIVIL AERONAUTICS BOARD

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001

BEFORE THE
CIVIL AERONAUTICS BOARD
WASHINGTON 25, D.C.

RECEIVED
DOCKET SECTION
JUL 28 12:55 PM '58
CIVIL AERONAUTICS BOARD

*In the Matter of the Application of *
*
* SHEBOYGAN COUNTY, WISCONSIN *
*
*for scheduled air transportation of *
*persons, property, and mail from the *
*Sheboygan County Airport to and from *
terminal or intermediate points with-
in or without the State of Wisconsin.

DOCKET NO. 9767

APPLICATION FOR SCHEDULED
AIR TRANSPORTATION

Communications with respect
to this application or any
documents filed in connection
therewith may be served by
mail on:

Attorney David Weber
Sheboygan County Court House
Sheboygan, Wisconsin

District Attorney for Sheboygan
County, Wisconsin

July 24, 1958

To: The Civil Aeronautics Board
Washington, D. C.

Sheboygan County, a political subdivision of the State of Wisconsin, "applicant" applies for either a permanent or temporary certificate of convenience and necessity, and joins with the following for said certificate of convenience and necessity:

City of Sheboygan, a political subdivision of the County of Sheboygan, State of Wisconsin.

City of Plymouth, a political subdivision of the County of Sheboygan, State of Wisconsin.

Village of Oostburg, a political subdivision of the County of Sheboygan, State of Wisconsin.

Village of Cascade, a political subdivision of the County of Sheboygan, and State of Wisconsin.

Village of Waldo, a political subdivision of the County of Sheboygan, and State of Wisconsin.

Village of Elkhart Lake, a political subdivision of the County of Sheboygan, and State of Wisconsin.

Village of Kohler, a political subdivision of the County of Sheboygan, and State of Wisconsin.

and the Sheboygan Association of Commerce, the Plymouth Association of Commerce, the City of Sheboygan Falls Chamber of Commerce and the Lakeland College of Sheboygan County, Wisconsin, and states as follows:

1. Applicant is a municipal corporation of the State of Wisconsin and applicant's address is: Sheboygan County Court House, 615 North 6th Street, Sheboygan, Wisconsin.
2. Applicant, by virtue of the authority granted by the laws of the State of Wisconsin, will own and operate a Class 3 Airport, known as the Sheboygan County Airport located in the Town of Sheboygan Falls in Sheboygan County, Wisconsin, which will serve the Cities of Sheboygan, Sheboygan Falls, Plymouth and the Villages of Adell, Cascade, Cedar Grove, Elkhart Lake, Glenbeulah, Kohler, Oostburg, Random Lake, Waldo and other cities and units of government yet to be determined, all in the State of Wisconsin.
3. Applicant is desirous that authority be given to an appropriate commercial airline to schedule air

Civil Aeronautics Board
Washington, D. C.

003

transportation of persons, property, and mail from its airport to such other terminal or intermediate points in and without the State of Wisconsin as, in the judgment of the Civil Aeronautics Board, it deems proper.

4. Applicant proposes to maintain its airport after its construction as a Class 3 Airport and to comply with all the rules and regulations of the Civil Aeronautics Board and the Civil Aeronautics Administration in the future maintenance and conduct of its airport as may be required in the circumstances.
5. Applicant does not now have scheduled airline service at its airport, either as a terminal point or as an intermediate point.

The contents of this application are true to the best of my knowledge and belief.

Dated this 24th day of July, 1958.

SHEBOYGAN COUNTY

BY:




David Weber

District Attorney, Sheboygan
County, Wisconsin

I, Ernst L. Kaufmann, County Clerk of Sheboygan County, Wisconsin, under my hand and seal to help certify that David Weber is the District Attorney for Sheboygan County and that he is authorized to execute the foregoing application on behalf of Sheboygan County by virtue of his office and by virtue of his being appointed as counsel to the Sheboygan County Airport Committee by the Sheboygan County Board of Supervisors.

Dated this 24th day of July, 1958.



Ernst L. Kaufmann
County Clerk, Sheboygan
County, Wisconsin

NEED FOR LOCAL AIR SERVICE TO AND FROM SHEBOYGAN SHOWN BY LARGE
NUMBER OF OTHER COMMUNITIES WHICH HAVE OFFICIALLY JOINED
WITH SHEBOYGAN COUNTY IN ITS APPLICATION
FOR AIR TRANSPORT SERVICE.

1. City of Sheboygan
2. City of Plymouth
3. City of Sheboygan Falls
4. Village of Oostburg
5. Village of Cascade
6. Village of Waldo
7. Village of Elkhart Lake
8. Village of Kohler
9. The Sheboygan Association of Commerce
10. The Plymouth Association of Commerce
11. The Sheboygan Falls Chamber of Commerce
12. Lakeland College of Sheboygan County.

PROFITS ON THE PROPOSED OPERATION ARE ASSURED

Comparison of Estimated Revenues and Expenses With Those
At 6 Cities Investigated in CAB Dkt. #10036 (June 1960)

City Data from BAO Exhibits in CAB Docket No. 10036	p.l., BAO 9-C BAO 10-C BAO 11-C BAO 12-C BAO 13-C BAO 14-C	Bemidji Brainerd Clntvill Ironwood Th.R.Falls Winona	Ests. for SHEBOYGAN				
<u>Aircraft Operating Data</u>							
Flight Performance Factor	95.4	90.4	87.4	84.3	93.2	95.0	
Actual No. of Stops	1,393	1,324	1,319	1,276	1,231	1,360	
Revenue Plane Miles	6,965	-	4,636	17,048	9,848	4,718	
Aircraft Hours	145	96	125	201	152	129	
<u>Traffic Data(000 omitted, ex. SHE)</u>							
No. of Passengers	5.2	4.9	2.9	4.8	3.2	3.7	8,000
No. of Passenger Miles	1,025.6	663.4	631.1	1,584.0	787.4	838.1	1,048,000
Psgr. T/M @ 190 pds.	97.4	63.0	60.0	150.5	74.8	79.6	99,560
Express T/M	.2	.4	5.3	.2	.2	7.3	3,570
Freight T/M	.2	.1	1.9	.3	.4	14.9	11,200
Excess Baggage T/M	.8	.5	.5	1.2	.6	.6	785
Mail T/M	.7	1.3	1.0	1.4	.5	1.8	4,750
Total Ton Miles	99.3	65.3	68.6	153.6	76.5	104.1	119,865
<u>Aircraft Operating Expense</u>							
Flying Operations & Maint.	\$ 11.9	\$ 7.9	\$ 10.3	\$ 16.5	\$ 12.5	\$ 10.6	\$ 19,020
Depreciation & Rent.-Flt.Equip.	1.3	.9	1.1	1.8	1.4	1.2	2,460
Stewardess Salaries	.7	.5	.6	1.0	.8	.7	1,400
Total	\$ 14.0	\$ 9.2	\$ 12.0	\$ 19.3	\$ 14.6	\$ 12.4	\$ 22,880
<u>Servicing Expenses</u>							
Local	\$ 17.7	\$ 19.1	\$ 18.8	\$ 17.6	\$ 17.8	\$ 20.1	\$ 20,090
Regional & System	19.0	14.4	14.8	24.2	15.5	19.4	22,770
Combined	36.7	33.5	33.6	42.3	33.3	39.5	42,860
TOTAL OPERATING EXPENSES	\$ 50.6	\$ 42.8	\$ 45.7	\$ 61.7	\$ 47.9	\$ 51.8	\$ 65,740
<u>Commercial Revenue</u>							
Passenger (BAO 6-city ave. @ .0716 per RPN)	\$ 76.0	\$ 49.0	\$ 43.3	\$ 113.9	\$ 55.8	\$ 58.2	\$ 62,880 (364)
Express	.1	.2	2.2	.1	.1	3.0	1,495
Freight	.1	-	1.0	.1	.2	7.8	5,860
Excess Baggage	.6	.4	.4	1.0	.5	.5	635
Service Mail	.6	1.0	.8	1.1	.4	1.4	3,750
Total	\$ 77.3	\$ 50.7	\$ 47.7	\$ 116.2	\$ 56.9	\$ 70.9	\$ 74,620
Operating Gain	26.7	7.9	2.0	54.5	9.1	19.1	8,880
LESS: Return on Investment	.6	.4	.5	.9	.7	.6	880
NET PROFIT	\$ 26.1	\$ 7.5	\$ 1.5	\$ 53.7	\$ 8.4	\$ 18.5	\$ 8,000

PROFITS ON THE PROPOSED OPERATION ARE ASSURED

Air Passenger Revenue Estimates

Line No.	<u>Commercial/Industrial Air Passenger Traffic Potentials</u>		
	1.	Total No. of Trips - 61 Survey Reports	7,113
	2.	Less "Nearby Points" (MKE, MTW, GRB, OSH, ATW, CLI, etc.)	<u>636</u>
	3.	61 Survey Reports - <u>NET</u> Total Trips	6,377
	4.	No. of Trips that "WOULD have been made by Air" (ATP)	5,370
	5.	% "ATP" of NET Total Trips (excl. "nearby points")	<u>84.2%</u>
	<u>No. of Employees at 61 Businesses Surveyed:</u>		
	6.	Outside of SHE County 7,230 In SHE County	12,447
	7.	TOTAL non-agric. employment in SHE County	30,500
	8.	% 61 Businesses of SHE County (approx.)	40%
	9.	Assuming Surveyed Firms Generate 90% of C/I Total	90%
	10.	Balance of Total C/I ATP by Non-surveyed Firms	10%
	11.	Est. SHE County Total C/I "ATP": Surveyed = 90% =	5,370
	12.	Non-surveyed = 10/90 of Survey (5,370) = approximately	<u>630</u>
	13.	Total Commercial/Industrial "ATP" - SHE County =	6,000
	14.	Est. OTHER (Non-Com'l/Ind) SHE County "ATP" (50% of C/I)	<u>3,000</u>
	15.	Est. Total "ATP" for SHE County Residents	9,000
	16.	Estimated "ATP" in Trips TO/FROM SHE County by Residents of <u>other</u> areas (1/3 of SHE County ATP)	<u>3,000</u>
	17.	TOTAL Air Traffic Potential	<u><u>12,000</u></u>

PROFITS ON THE PROPOSED OPERATION ARE ASSURED

Air Passenger Revenue Estimates (continued)

Distribution of Air Passenger Traffic by Gateways

In making our estimates of Passenger Revenue, it has been assumed:

1. That only 2/3 of the indicated 1959 ATP is realized in the 7th to 18th months of service.
2. That there is no "normal growth" above the 1959 Total Travel level in the 7th to 18th months.
3. That the inauguration of scheduled air transport service at the Sheboygan County Airport would not generate any new volume of air travel.
4. That the "travel patterns" shown by the C/I ATP is essentially the same as that for the Total ATP.
5. That Sheboygan is added to NOR's Segment 10 between Appleton and Milwaukee.
6. That 50% of the SHE-NYC traffic (both directions) will use Milwaukee as connection point.
7. That there will be no "local" SHE-MKE passengers. (The 81 ATP SHE-MKE trips in 1959 reported by firms surveyed have been excluded from our calculations).

Note: Additional on-line revenue from traffic to/from NOR Route 86 cities beyond gateways, etc., is shown in Exhibit SHE-6.

Total On-line Air Traffic Potential (from page 1)	12,000
Reduction for Assumption No. 1 (only 2/3 realized)	<u>4,000</u>
<u>NET</u> ATP to be realized in 7th to 18th months	<u><u>8,000</u></u>

	<u>% of Total</u>	<u>No. of Psors.</u>	<u>Miles fr. SHE</u>	<u>Revenue Psors. Miles</u>
TO/FROM: CHICAGO	70	5,600	130	728,000
MILWAUKEE	20	1,600	50	80,000
MPLS/ST. PAUL	10	<u>800</u>	300	<u>240,000</u>
TOTALS		8,000	-	1,048,000

Estimated Air Passenger Revenue (@ \$.06 per RPM) \$ 62.880

CAB Docket No. 9767
Exhibit SHE-37
(Date: Apr. 17, 1961)

TABULATION OF ROUTING SHOWN ON AGENT'S COUPONS FROM TICKETS
SOLD IN 1960 BY SECURITY TRAVEL BUREAU
SHEBOYGAN, WISCONSIN

<u>A. Number of One-Way Trips Analyzed</u>		<u>% of Total</u>
1. Trips which included an MKE-CHI or CHI-MKE Segment	1,405	24.9
2. Trips with <u>NO</u> MKE-CHI air transport		
a. CHI Origination or Termination (no MKE)	1,429	
b. MKE Origination or Termination (no CHI)	2,704	
c. CHI as "intermediate point" (no MKE)	7	
d. MKE as "intermediate point" (no CHI)	49	
e. Neither MKE nor CHI shown on coupons <u>1/</u>	48	75.1
TOTAL	5,642	100.0

<u>B. Distribution by Airlines of Trips Which Included an MKE-CHI or CHI-MKE Segment (Item A.1. above)</u>			<u>Percent of Total</u>
American	51		3.6
Capital	31		2.2
Eastern	41		2.9
North Central	985		70.1
Northwest	221		15.8
United	62		4.4
Unknown <u>2/</u>	14		1.0
TOTAL	1,405		100.0

1/ Such as GRB-MSP, etc.

2/ Code letters for airline not legible.

Source: Security Travel Bureau's Agent's Coupons

SHE Testimony - HCT

Before the

CIVIL AERONAUTICS BOARD
WASHINGTON, D.C.

In the Matter of the Application of
SHEBOYGAN COUNTY, WISCONSIN
for Scheduled Air Transportation
.....

Docket No. 9767

DIRECT TESTIMONY OF

H. C. Timberlake, Economic Consultant
witness for
SHEBOYGAN COUNTY

H. C. Timberlake m/o/f
Timberlake & Timberlake
Economic Consultants
220 Tenth Street
Las Vegas, Nevada

CIVIL AERONAUTICS BOARD	
DOCKET NO. 9767	TESTIMONY OF SHE-HCT
WITNESS: Timberlake	
DATE: 3/23/61	

University of Minnesota, B. S. Degree, 1917 and post-graduate, 1922-1927. Federal Reserve Bank of Minneapolis, 1922-1944, Statistician, 1937-1944. Conducted business, financial and agricultural research for the Federal Reserve Bank of Minneapolis, the Board of Governors for the Federal Reserve System and governmental agencies, such as NDAC, OPM, WPB, District Manager (Minneapolis), 1940-1942, of WPB and its predecessor agencies.

Economist, Northwest Airlines, Inc., 1944-1947. Conducted economic and statistical research for the route expansion program that extended NWA's operations from a Chicago-Seattle route to New York and Washington, to Alaska, to Tokyo, Shanghai and Manila.

Economic Consultant, 1947 to date, representing telephone companies on FCC matters, trade associations on material allocations and many communities and areas across the nation in CAB route cases including the Minneapolis-Saint Paul Metropolitan Airports Commission, the State of Wisconsin and Clark County (Mc Carran Field, Las Vegas) Nevada.

For the last three years, residents of the Sheboygan County Area have been actively engaged in assembling the facts and figures contained in the sets of Exhibits (SHE-1 through SHE-35) that were distributed last November.

Originally, it was anticipated that a Hearing on Docket 9767 might be scheduled late in 1958 so our Exhibits were based on 1957 data. During 1959, when it became evident that our Hearing was still many months distant, upon reviewing our 1957 data, it was decided that there had been a sufficiently large number of changes in the travel and shipping habits of our citizenry to

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SHE -Testimony HCT
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warrant the expense -- and inconvenience -- of conducting another Survey of Commercial/Industrial Travel Trips made in 1959, and of Air Freight, Air Express and Air Mail volumes in that year. A copy of our Form #1 which we used to procure the basic information as to the "type" of transport used and the "monthly distribution" of the travel trips reported has been included as page 2 of Exhibit SHE-24. Our Form #2 was an outline map of the United States, showing the locations of about 300 airline cities, on which the 61 cooperating firms indicated the cities to and/or from which a firm had as many as 12 trips (a one-trip-per-month average) in 1959. Because of the exclusion of trips to and from cities where the 1959 volume was "low" our total of 6,216 shown in SHE-23 is necessarily somewhat less than the actual total. This is probably one reason why Exhibit BAO-10 comes up with a higher passenger forecast total than we have developed in Exhibit SHE-2 (p.3). Another probable reason for BAO-10's forecast (8,680) being higher than our forecast of 8,000, is that very few of our 61 cooperating firms are familiar with "transportation surveys" and the necessity of converting "round-trips" into "2 one-way trips", in order that an accurate total may be obtained.

All of our "Instructions to Cooperating Firms", our early "briefings" before the Survey was initiated, and our correspondence in re "evident inaccuracies" shown in a firm's reports emphasized the necessity of converting "round-trips" into "one-way trips". However, most of the reports did not contain any "evident inaccuracies" so no correspondence was required. Consequently, we had no way of determining whether the "12 trips to Detroit" (for example) were "round-trips" or "one-way trips". In our tabulations we aggregated the figures as were shown on the "signed" reports that were received from the individual firms. However, from the frequency that firms with

which we had correspondence as to their reported figures admitted that they had "overlooked" that "conversion" instruction, we are convinced that an important segment of our 61 cooperating firms reported "Number of trips" (lumping "round-trips" with "one-way trips") on both their Forms #1 and #2.

All in all, the "loss in the number of reported trips" may not be very great. We "estimate" about 10% for each of the above factors -- and "plus factors" they must necessarily be. On that basis -- IF we had included them -- which we did NOT do, because we had no POSITIVE PROOF that our "estimate" is correct -- our forecast would have been about 9,600 passengers, which is about 10% higher than the forecast shown in Exhibit BAO-10.

From the above, it is quite evident, we believe, that we take no exception to BAO's forecast of 8,680 passengers. Furthermore, because of those two "plus factors" that we intentionally omitted from our computations, it may very well develop that even BAO's forecast "understates" rather than "overstates" the true potential of the Sheboygan County Area.

Insofar as this case is concerned, perhaps the most important single point is the Board's adoption of an overall "yardstick" (back in 1958) to serve as one simple determinant as to whether an applicant community -- such as Sheboygan County -- is entitled to the local air transport service that it seeks. That "yardstick" is 3,600 TO/FROM (on/off) passengers in the 7th - 18th months AFTER service is inaugurated. We have been very much aware of that minimum, ever since it was originated, and you can be sure, Mr. Examiner, that you would not be conducting this Hearing, if it had not been VERY evident that our "Air Traffic Potential" was not substantially above the 3,600 minimum.

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SHE-Testimony HCT
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Our confidence in our ability to prove to you and the Civil Aeronautics Board that we will generate MORE than 3,600 TO/FROM passengers per year dates back to our original 1957 Survey. In 1957, a single Travel Agency -- the Security Travel Agency, alone, sold more than 3,600 one-way airline tickets. Again, in 1959, the Security Travel Agency -- one of our "most cooperative" cooperators in our efforts to get air transport service TO/FROM Sheboygan, sold MORE than 3,600 one-way tickets. Detailed monthly figures are shown in Exhibit SHE-28. (The 1959 total was 3,840!)

Another "ACTUAL USE air transport volume figure" that exceeds the "3,600 annual minimum" is the number of scheduled air transport trips in 1959 made by representatives of the 61 firms included in our Travel Trip Survey. Their 1959 total was 3,670 as shown in Exh. SHE-24. This figure of 3,670 does NOT include any trips made by "customers", nor any trips by "traveling salesmen" calling on these 61 firms, nor does it include any element of "expansion" (1) for non-surveyed firms, (2) for "personal" air transport trips FROM/TO the Sheboygan County area by residents but NOT paid for by any business firm, nor (3) for residents of other areas in the world, TO/FROM the Sheboygan County Area for business or personal reasons.

If we had felt that the ONLY issue involved in the Certification of Sheboygan for Local Air Transport Service was whether or not our traffic volume would meet CAB's minimum requirement of 3,600 on and off passengers per year, our Exhibits could have been limited to the 2 referred to immediately above, Exhibit SHE-24 and SHE-28. Those 2 Exhibits prove very conclusively that the 3,600 minimum will be exceeded within a relatively few months after service is inaugurated.

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SHE - Testimony HCT
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However, in view of our experience in this field (this is our 93rd CAB air route Case since January 1, 1944) we realized that because of Sheboygan's proximity to Milwaukee (only 50-57 miles) where more "connecting services" are becoming available every year, the "profitability" to North Central of the service we are requesting, might very well be a matter of major concern. In order to determine that, we prepared Exhibit SHE-2, and found that the service we are requesting, not only will be "subsidy free" but will provide about \$8,000 per year of PROFIT, which will help to reduce the total amount of subsidy required by North Central Airlines because of the losses NOR is sustaining by providing local air transport service to some cities on its System which cannot produce enough traffic to completely "pay their own way".

After studying, analyzing and evaluating the Exhibits submitted by BAO and NOR, it is our opinion, Mr. Examiner, that our Exhibit SHE-2 may be one of the two most important and persuasive Exhibits in this Case. The other Exhibit which is of primary importance and significance, of course, is Exhibit BAO-11, which shows an even greater "Operating Gain" (to NOR) from the inclusion of Sheboygan as an intermediate point on NOR's Segment 10.

The "reasons" that BAO's Exhibit BAO-11 shows a greater annual "Operating Gain" (\$11,427. vs. \$8,000.) are perfectly obvious when the specific figures in BAO-11 and SHE-2 are compared. In our desire to present figures that were actually "down-to-earth" and contained no element of "wishful thinking", in the preparation of page 1 of Exhibit SHE-2, we constantly used lower figures when they were "unfavorable" and "higher figures" (for expenses, etc.) when they were "unfavorable" to us. For example, not having EXACT data available, we assumed a circuitry of "10 miles per trip" -- for a total of 13,870 airplane miles. With the

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more accurate data which BAO had available, the "circuitry" was estimated at only "7 miles per trip", for a total of only 9,947 airplane miles per year. (Incidentally, Exhibit NOR-24 shows a "circuitry" of only 5 miles per trip, and NOR-26 shows a total of only 7,105 airplane miles.)

Because of the differences detailed in the preceding paragraph, BAO's estimate (or forecast) of NOR's "Aircraft Operating Expense" in connection with service to Sheboygan is \$3,647 LESS than our estimate (or forecast) for the same item. Because of that one difference, it is evident that BAO's "Operating Gain" would necessarily be \$3,647 more than our forecast. And in the final analysis that is just about the difference between BAO-11, and SHE-2: $\$11,427 - \$3,647 = \$7,780$; SHE-2, p.1, $\$8,000 - \$7,780 = \$220$. (difference). There are some differences between BAO's and SHE's figures for the other items in BAO-11 and SHE-2, it is true, but they tend to "offset" so that the only major difference between the two figures, the \$8,000. "Net Profit" forecast by SHEboygan and BAO's "\$11,427 Net Operating Gain", is \$3,427.

In recognition of the fact that our "conservative approach" has been proven to be a little "ultra-conservative", we are willing to adopt BAO's Exhibit BAO-11 (on Segment 10), as our own.

On that basis, our Exhibits -- by "our" I mean BAO-Exhibits and SHE-Exhibits -- have proven that local air transport service to Sheboygan County is required, that such service will be profitable to North Central, and that such "profits" will tend to reduce NOR's need for "subsidy payments" in other areas.

The entirely different conclusion presented in Exhibit No. NOR-26 is the result of entirely different "concepts" as to the ton-miles of Sheboygan Traffic that will be generated. BAO-11 shows a little over 118 thousand. Exhibit SHE-2 shows almost 2 thousand more (less than a 2% difference) but Exhibit NOR-26

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shows an estimate of only 1/5th as many ton-miles as have been forecast by the other parties that are interested in this Docket.

Obviously, such a great difference must be in "concepts", rather than in the "applications" of recognized techniques.

The first major difference in "concept" is NOR's assumption that the annual air travel pattern to be established by Sheboygan's 7,000-9,000 passengers will be identical with, or even similar to, the air travel pattern shown by passengers to and from the Milwaukee Metropolitan Area during the 14 days, Sept. 17-30, 1958.

Not only is there a terrific difference in size -- more than a million persons in the Milwaukee Area compared with less than 86,000 in the Sheboygan Area -- but there is also such a wide difference between the air service pattern available at General Mitchell Field in Milwaukee and that which will be available at the Sheboygan County Airport, that no such assumption is tenable.

At General Mitchell Field, air passengers to and from the Milwaukee Area can travel east, west, north, or south on 100 or more flights per day. At the Sheboygan Airport, passengers will have service only to the west and to the south, and only two choices per day, each way. The wide difference in the air service patterns at Milwaukee and at Sheboygan is clearly indicated by the fact that the FAA in its Air Commerce Traffic Pattern publications classifies Milwaukee as a "Medium Hub" whereas Sheboygan, of course, will be classified as a "Non-hub" station. If NOR had selected a near-by Non-hub station -- such as Manitowoc (all of the figures for the Manitowoc September 1958 passenger flow are shown in Exhibit-18) -- a much more realistic "pattern" would have been developed, as shown in a table presented later herein.

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However, when additional data is available, to me it does not seem a good practice to use only a "14 day sample" -- of even a comparable station -- as a basis for distributing any applicant's annual traffic volume. The Bureau of Air Operations' use of both the March and September 1958 data is a much more acceptable technique, and its use of the two cities, Manitowoc and Oshkosh, produce conclusions that are at least twice as reliable as those that are developed when only one city is used.

That is proven by Exhibit BAO-9, which presents a distribution pattern that is practically the same as was actually experienced on 5,370 trips (in 1959), made by representatives of the 61 firms who cooperated with us in our Travel Trip Survey. A city-by-city listing of those trips is presented on the first 2 pages of Exhibit SHE-5.

On page 3 of that Exhibit, those 5,370 actual trips have been summarized by gateways. The percentages derived therefrom -- after "rounding" to facilitate calculations -- were used in Exhibit SHE-2, p.3, to develop our estimate of the Total Revenue Passenger Miles to be generated by air travel to and from Sheboygan when service to the Sheboygan County Airport on Segment 10 of NOR's Route 86 is inaugurated.

The close similarity of the distribution patterns referred to above is shown in col. 7 of the table below, together with the widely different pattern used by North Central.

L i n e:	(1) Gate- ways	(2) Exhibit SHE-5	(3) Exhibit BAO-9	(4) Manitowoc (from Exh. NOR-18)	(5) Average of Cols. 2,3,4	(6) As used in Exh. SHE-2	(7) Exh. NOR- 22
1)							
2)	CHI	66.5	72.5	68.3	69.1	70.0	31.9
3)	MKE	21.0	19.0	19.4	19.8	20.0	64.6
4)	MSP	11.0	4.5	7.7	7.7	10.0	-
5)	OTHER	1.5	4.0	4.6	3.4	-	3.5
6)		100.0	100.0	100.0	100.0	100.0	100.0

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A second major difference in North Central's "concept" of passenger traffic flows that will be developed by Sheboygan passengers, is its omission of Minneapolis/St. Paul (the Twin Cities) as a "Gateway" that will be used. The total is not overly large (about 11% according to our data). Our Survey showed a total of 590 trips to, from, or through the Twin Cities in 1959 (out of the 5,370 total). The only reasonable conclusion that can be drawn from that fact is that -- on the average, year in and year out -- about 11% of the Sheboygan air passenger traffic will use the Twin Cities Gateway.

I note that the percentage we used for the Twin Cities Gateway (10% - column 6, line 4 in the preceding table) is somewhat higher than BAO's 4.5%. Upon rechecking our basic data, I found that the 61 firms reported a total of 643 trips made in 1959, to the points named in Exhibit SHE-5, and that there would have been 590 trips by air, if scheduled air transport service had been available, on Segment 10, in 1959.

We readily admit that our estimate of 10% for the Twin Cities may be a little high. On the other hand, BAO's 4.5% may be a little low, because of the fact that there was no direct service between Manitowoc and the Twin Cities in 1958. A change of planes was required either at Green Bay, Milwaukee, or at Chicago.

The Twin Cities, however, are the western terminus of Segment 10, and we anticipate that the percentage of Sheboygan traffic which will use the Twin Cities Gateway will be a little higher than "the average" for Manitowoc and Oshkosh. Even if our estimate of the Revenue Passenger Miles generated by traffic to and through the Twin Cities Gateway is a little high, there is not a sufficient number of miles involved to have any significant effect on the "average passenger journey", and consequently it would have very little effect on the Profitability of the Pro-

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For example, if we were to adjust our Twin Cities Gateway percentage by averaging BAO's 4.5% and the 10% we used, at "7.2%", (adding all of the adjustment to the Milwaukee percentage) and were to also adjust our "conservative mileages" up to the BAO levels, our Total Revenue Passenger Miles would be only 7,680 less than the 1,048,000 RPM's we show on p.3 of Exhibit SHE-2.

(ADJUSTED AS PER THE ABOVE EXAMPLE)

TO/FROM:	Percent of Total	No. of Passengers	Miles from Sheboygan	Revenue Psgrs. Miles
(1)	(2)	(3)	(4)	(5)
Chicago	70.0	5,600	137	767,200
Milwaukee	22.8	1,824	55	100,320
Mpls/St. Paul	7.2	576	300	172,800
Totals	100.0	8,000	-	1,040,320

Average passenger journey 130.04 miles
Estimated Air Passenger Revenue (@ \$.06 per RPM) \$62,419.
Difference: \$62,880 LESS \$62,419 = \$ 461.

Referring again to North Central's omission of Minneapolis/St. Paul as a gateway to the northwest for Sheboygan traffic (Exhibits NOR-19 and NOR-22), a re-work of the data shown in NOR-19 produces a percentage of traffic to and thru the Twin Cities that is one-third larger than the 10% figure that we used.

The following table contrasts the Exhibit NOR-19 Total Number of Passenger (and percentages) with those shown by the CAB September 17-30, 1958 Survey, when use of the Minneapolis/St. Paul Gateway is recognized:

Gateways	Exhibit NOR-22		CAB O/D Survey	
	Per- centages	No. of Psgrs.	Per- centages	No. of Psgrs.
(1)	(2)	(3)	(4)	(5)
Chicago	31.9	8,038	31.8	8,030
Milwaukee 1/	64.6	16,310	51.3	12,946
Mpls/St. Paul	-	none	13.3	3,354
Other	3.5	876	3.6	894 2/
Totals	100.0	25,224	100.0	25,224

1/ "East" & "West" combined.

2/ Includes a "net" of 18 "Local" passengers not included in Exhibit NOR-22.

The third major difference in North Central's "concept" of the volume of "on-line revenue passenger miles" it will gain when service to Sheboygan is provided, is its calculation of "self diversion" losses, (Exhibit NOR-22).

Only once before in my 16 years experience on CAB Route cases has an airline claimed that if service is authorized to an applicant, it would "lose" traffic that it never had! And that "claim" was made by North Central Airlines in Docket No. 7454 with regard to Service to Appleton, Wisconsin.

At the Hearing, one of North Central's witnesses feared that the revenue from passenger boardings/deplanings "lost" at Oshkosh, would more than offset the revenue "gained" from passenger boardings/deplanings at Appleton. At his request we prepared an additional Exhibit related solely to that point. That Exhibit proved that the opposite was true. (CAB Dkt. #7454, Exhibit WIS-R5, p.4).

Inasmuch as Appleton was about 20 miles NORTH of Oshkosh (Appleton passengers' boarding point for all trips east and south which was about 80% of the total) it was obvious that North Central would receive "20 miles more revenue" from every Appleton "east-south" passenger. The "end-result" was a "Net Gain" in passenger revenue for North Central of about \$2,000. per year -- almost a 40% GAIN over the revenues North Central received from its Appleton Area passengers when they were compelled to use surface transport for 20 miles, in order to board a plane at the Oshkosh Airport.

It seems to me that Exhibit No. NOR-22 attempts to raise the same problem, but again I must say that I cannot understand how an airline can put forth a claim that it will lose any revenue from traffic that it has never had!

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Our Exhibit SHE-17 shows that 4,173 business trips were made by air in 1959. Naturally, most of them were made by scheduled air transport service. As shown by Exhibit SHE-18, in order to use Scheduled Air Service about 10 passengers per day risked their lives -- and, perhaps, the lives of their wives and their youngsters -- by using their privately owned (or company) cars, to and from their boarding and deplaning points. Naturally, very few of them were inclined to extend their "exposure to risks" any farther than was absolutely necessary. Because of that, and because of "Inconvenience and extra cost of surface travel to and from Chicago" (Exhibit SHE-20), there is no question but what Milwaukee has been Sheboygan's "preferred connection point" in the past. It must be remembered, however, that in the past the "connection" referred to has been a "connection" between surface transport and air transport.

For the future, when scheduled air transport service at the Sheboygan County Airport is available, the "historical past" has no significance. When "connections" between surface transport and air transport can be made at the Sheboygan County Airport, (from a taxi, limousine or private/company auto to North Central's scheduled air service), our Survey shows very conclusively that the "preferred ^{AIR TRANSPORT} connection point" will be Chicago. (Exh. SHE-5, p.3). Consequently, NOR will not only GAIN the revenue miles between Sheboygan and Milwaukee (which necessarily, are "surface transport" today) but will also GAIN a very substantial volume of Revenue Passenger Miles between Milwaukee and Chicago.

The accuracy of the preceding statement is proven by the ^{following} figures in the following table. In 1959, representatives of the 61 firms included in our Survey, because of a number of reasons (cost,

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convenience, reduced highway risk, etc.) used Milwaukee as their boarding/deplaning point for a total of 2,698 out of a total of 3,670 trips - about 70 percent.

However, the same firms; with the same trips in mind PLUS about 1,700 trips by rail and auto, to/from Sheboygan County reported that "if scheduled air transport service to/from the Sheboygan County Airport had been available in 1959", a total of 5,370 (of their 1959 total of 6,216 trips, Exh. SHE-23) would have been made by air.

Our development of the figures in SHE Rebuttal Exh. R-1 was for the purpose of testing the validity of the figures in Exhibit NOR-22. The NOR-22 figures do not withstand the tests we have applied.

In SHE-R1, we have concerned ourselves only with the calculation of the passenger miles generated on trips between Sheboygan and Milwaukee/Chicago, no part of which was made by scheduled air transport. In other words, Exh. SHE-R 1 is an attempt to show that IF NOR had been able to serve Sheboygan in 1959, how many MORE passenger miles would have been available to it, in connection with the single function of transporting Sheboygan travelers to Milwaukee or Chicago on trips they actually made in that year.

Our data (all shown in the Direct Exhibits referred to by footnotes) almost exclusively refers only to those trips on which "common carrier service" was used on some part of the trip. The only exception in that regard is that 45,150 passenger miles, by private or chartered plane, are included in Line 5 of SHE Exh. R 1, inasmuch as most of these (84.2%) would have been by scheduled air transport, had it been available at Sheboygan. Our basic data also included 62 trips by bus, for which, as indicated in Footnote 6, no passenger miles have been calculated.

One other point should be made clear. In the tabulation of our basic data (as indicated in Direct Exh. SHE-2, Line 2) all trips to/from "nearby points", MKE, MTW, GRB, OSH, ATW, CLI, STE, etc., were eliminated on the premise that travel between those cities and Sheboygan had very little "Air Traffic Potential".

Line 5 of SHE Rebuttal Exhibit R 1 indicates that (a) 134,900 passenger miles (col.3) were generated in the transport of the 2,698 travelers who used scheduled air transport from or to Milwaukee, (b) 121,290 passenger miles (col.4) in the transport of the 933 who used scheduled air transport from Chicago, and (c) 45,150 passenger miles (col.2) in the transport of the 503 travelers who would have used scheduled air transport instead of their private or chartered planes, on their trips beyond Milwaukee to the east or west (50%) and to Chicago or beyond (50%).

It should be noted that the total passenger miles for this one group of 4,173 "off-the-ground" and "into-the-air" travelers is substantially greater than the net total of "Sheboygan New RPMs" used by NOR in computing its "TOTAL MAIL PAY" requirements, (NOR-22, 236,228; NOR-26, 236,228; NOR-27, p.4, 236,228).

In connection with trips-by-rail from Sheboygan, Line 7 shows the minimum number of passenger miles generated on the 1,355 trips between Sheboygan and Milwaukee and Line 8 the passenger miles between Milwaukee and Chicago for the 1,000 trips remainder, after our assumption that one fourth of the rail trips originating/terminating at Sheboygan were Milwaukee connections to/from the west.

The 453 rail trips which originated/terminated at Milwaukee (Line 6, col.3) developed 22,650 passenger miles (by private or company car) just for travel between Sheboygan and Milwaukee (Line 7).

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Again, assuming that one fourth of those Milwaukee originations/terminations were NOT to/from Chicago, 27,200 additional rail passenger miles were generated by the other three-quarters (340 trips) between Milwaukee and Chicago.

Only 173 private/company car trips "all the way to Chicago" for rail boardings (or terminations) were reported but even so, 22,490 passenger miles were generated in connection with those trips, for a total for "all origination/termination points by rail" (1,981 trips) of 220,090.

Combining these two classes of trips produces a total of more than half a million passenger miles (all origination/termination points - Line 10, col.6).

In all phases of our Survey of the 61 Commercial/Industrial Sheboygan County firms, (from which our Direct Exhibits, and Rebuttal Exhibit SHE-R1, were prepared), the firms were requested to specify "how many" of their 1959 trips would have been made by scheduled air transport from/to Sheboygan if such service had been available. As indicated in Direct Exhibit SHE-2 (p.2, line 5), in the aggregate it developed that 84.2% would have been made by air. For a "check" as to the reasonableness of the percentage that would ultimately be developed from the data reported to us by the individual firms, we requested the Security Travel Agency to question (at different times during 1959, on a sampling basis) its ticket purchasers as to whether or not they would have originated/terminated their scheduled air transport trips at Sheboygan, if such service had been available. (See Exhibit SHE-18 (reproduction of form), SHE-19 (summary of all samples combined) and SHE-20 (responses distributed by B/D points - Oct., Nov., Dec., 1959).

All of the data we have on this subject points to the same conclusion, about 85% of all trips made by residents of the Sheboygan Area in 1959, in connection with which some "common carrier service" was used for travel beyond Milwaukee or beyond Chicago, would have been made by scheduled air transport from the Sheboygan County Airport if such service had then been available. These facts clearly indicate that North Central's estimated percentage of its "Proximity Loss" in connection with both Milwaukee and Chicago is, to say the least, "unduly pessimistic".

One more point on this subject. NOR-22 estimates a much greater "Proximity Loss" in connection with scheduled air transport presently originating at Milwaukee (75% loss) than at Chicago (50% loss). Our data (Direct Exhibit SHE-20) proves the opposite. Specific answers to the specific question: If convenient airline service were available at our airport, would this trip originate (or terminate) there? (See "Source", Exhibit SHE-19) show that LESS than 10% of the purchasers of airline tickets for Milwaukee O/D's would NOT have used service at the Sheboygan Airport (Exh. SHE-20, line 13, col.2 "91.5% would have used it").

On the other hand, instead of a smaller percentage of "Proximity Loss" in connection with scheduled air transport passengers presently originating (or terminating) at Chicago as shown in Exh. NOR-22, our data indicates that the percentage is more than 4 times as great! As shown in Exhibit (SHE-20, line 13, col.5), only 53.4% of this group of ticket purchasers would have used the Sheboygan County Airport, even if scheduled air transport service had then been available.

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Combining the MKE and CHI responses (and including the 17 Green Bay/Manitowoc replies -- shown in Exh. SHE-20 but not previously referred to in this Testimony) the facts are that the overall percentage of USE of the Sheboygan County Airport is 86.4%. That means that, for one reason or another (and perhaps "proximity" is one of the principal reasons), 13.6% of Sheboygan's travelers would not have used scheduled air transport from/to Sheboygan, a percentage that is less than 1/3rd of North Central's "Proximity Loss" as indicated in NOR-22; $(265,320 \div 627,147 = 42.3\%)$.

Referring again to the more than half million passenger miles shown in Line 10, col.6 of Rebuttal Exhibit SHE-R1, it will be noted that in Line 12, we have appropriately reduced the "Common Carrier Total" (by 15.8%) and in col. 6 we present the actual "Air Traffic Potential" of passenger miles generated by these two classes of travelers (439,000).

I wish to remind you, Mr. Examiner, as well as all parties, that SHE Rebuttal Exhibit R1 is concerned only with determining how much more traffic North Central would have had available to it, from the single function of lifting these two classes of 1959 travelers "off-the-ground" and "into-the-air" when they were traveling to/from Milwaukee or Chicago in order to originate (or terminate) air or train trips to points BEYOND one or both of those cities (439,000). No "newly generated traffic" is involved; it is merely the "conversion" of surface passenger miles to air passenger miles.

While that limited total (61 firms data only -- no expansion to the "Sheboygan universe") is more than 85 percent greater than NOR's complete total, it is predicated on 1959 travel patterns to/from MKE/CHI only (when no air transport service was available at Sheboygan) and should not be confused with our FORECAST

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for a future year of 1,048,000 RPM's shown in Direct Exhibit SHE-2. Our FORECAST is for a period when service to/from the south, and to/from the west, will be available, and, of course, includes some traffic thru the Minneapolis/St. Paul Gateway, most of which will accrue to NOR.

The factual data presented in SHE Rebuttal Exhibit R1, in my opinion, clearly proves that the estimated percentages (and consequently the resultant figures) in NOR-22 are very inaccurate and that no reliance whatsoever should be placed on them.

With reference to Sheboygan Rebuttal Exhibit R 2, it is merely a "sketch map" to show that the east-central section of Wisconsin is not the only area in which the CAB has designated NOR as the Local Service Carrier to provide the scheduled local air transport service that it deems necessary.

In the title of Exh. NOR-1 there is no evidence that North Central is making any complaint in any way about adding Sheboygan as another intermediate station on its Route 86. Nor should there be any such complaint. The CAB has established a "3,600-on/off-passenger-per-year-yardstick" as to a station's NEED for local air service, and according to FAA's "Air Commerce Traffic Pattern" publication, for the Calendar Year 1958, every one of the cities shown in NOR-1 has more than met that minimum. Consequently, it must be concluded that "density of stations" in an area is of little value as a criterion of another community's NEED for air service.

If an analysis of the "density of stations" of other Local Service Airlines were to be made (including all of their various "Segments" as North Central has done), it might very well be proven that there are other Local Air Transport Airlines -- perhaps not as "big and strong" as NOR -- which the CAB has offered to "subsidize", if and when the "Public Necessity and Convenience" -- the very BACKBONE of our entire Civil Aeronautics Air Route Development Program -- require it.

While I have not discussed this point in recent years with NOR's Management, it seems to me that NOR's Management might be overlooking the fact that a Local Carrier's Primary Function is to "Provide Local Air Service" to communities that are too small to be served by the TRUNK Airline Carriers.

Naturally, there can be a legitimate question raised as to "WHEN" an applicant community "NEEDS" service. However, that question arises only when "subsidy" is involved. When a community requests scheduled air service -- by a trunk-line, or a local service line -- and can submit evidence that the airline's revenue from providing such service will result in a PROFIT to the airline certificated to serve it, there should be no question as to its "certification".

One of "Managements" responsibilities, of course, is to satisfy its stockholders. On the other hand, in order for a Local Service Carrier to continue to exist, it must satisfy the air transport "NEEDS" of the Area it serves. Decisions as to new "NEEDS" are made by the Examiner, or by the Board itself, NOT by the airline involved.

Summarizing our entire case, we believe that we have conclusively proved:

- First: That Exhibit NOR-19 is not applicable to Sheboygan traffic flows.
- Second: That North Central's use of a Milwaukee distribution pattern as a basis for estimating a pattern for Sheboygan is not justified.
- Third: That North Central's estimated "Proximity" and "Self Diversion" Losses are contrary to the FACTS in the case.
- Fourth: That North Central's "Losses" of Revenue Passenger Miles as shown in Exhibit NOR-22 are "imaginary" rather than real.
- Fifth: That profits on the proposed service to Sheboygan are assured.

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DISTRIBUTION OF NORTH CENTRAL'S PASSENGER TRAFFIC AT MANITOWOC
AND OSHKOSH, BASED UPON SHEBOYGAN'S AVERAGE PASSENGER JOURNEY

<u>Distribution of traffic:</u> ^{1/}	<u>Manitowoc</u>	<u>Oshkosh</u>	<u>Average</u>
OSD traffic, both local and connecting, March 1-14 and September 17-30, 1958 ^{2/}	499	3,515	-
Percent distribution of traffic between: Chicago	71.5	73.5	72.5
Milwaukee	19.8	18.2	19.0
Minneapolis/St. Paul	3.8	5.2	4.5
All other	4.9	3.1	4.0
<u>Average passenger journey</u>			
Estimated air miles between:			<u>Sheboygan</u>
Chicago			137
Milwaukee			55
Minneapolis/St. Paul			300
All other			175 ^{3/}
Weighted average distance			130.3

- ^{1/} The Bureau believes that the distribution of passengers at Sheboygan will be like that at cities of similar size, geographic location, and economic make up. Manitowoc, population 31,600, and Oshkosh, population 45,100, are both located relatively close to Sheboygan, and Sales Department, July 1960 indicates a substantial similarity in the economies of the three cities.
- ^{2/} Competition Among Domestic Air Carriers, March and September 1958.
- ^{3/} NOR's average passenger journey, 12 months ended 6-30-60.

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DEVELOPMENT OF SHATOYU'S PASSENGER GENERATING INDEX AND
ESTIMATE OF PASSENGER AND REVENUE PASSENGER MILES

Population, 1960 Census	45,690
Scheduled departures <u>1/</u>	1,460
Quality Index <u>2/</u>	96
Weighted average distance <u>3/</u>	130.3
Passenger Generating Index (000,000)	835
Passengers <u>4/</u>	8,680
Revenue passenger miles	1,131,004

1/ Assuming; 2/ daily round trips, See BAO-8.

2/ From Sales Management, Survey of Buying Power, July 1960.

3/ See BAO-8.

4/ Passengers originated doubled to account for deplaning passengers.

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ESTIMATED ANNUAL COST OF PROPOSED SERVICE TO SHEBOYGAN, WISC., BY NORTH
CENTRAL AIRLINES, INC.
12 Months Ended September 30, 1961

	On Segment 10	On Segment 2
<u>AIRCRAFT OPERATING DATA</u>		
Scheduled Stops a/	1,460	1,460
Scheduled Plane Miles a/	10,220	0
Performance Factor b/	97.3	97.3
Aircraft Stops c/	1,421	1,421
Revenue Plane Miles c/	9,944	0
Aircraft Hours d/	194	135
<u>TRAFFIC DATA</u>		
Passengers e/	8,600	8,600
Revenue Passenger Miles f/	1,131,004	1,131,004
Passenger Ton-Miles (at 190 pounds)	107,445	107,445
Other Commercial Ton-Miles g/	7,446	7,446
Mail Ton-Miles h/	3,223	3,223
Total Ton-Miles	118,114	118,114
<u>AIRCRAFT OPERATING EXPENSE</u>		
Flying Operations and Maintenance i/	\$16,606	\$11,539
Depreciation and Rentals - Flight Equipment j/	1,476	1,027
Stewardesses' salaries k/	1,051	732
Total Aircraft Operating Expense	\$19,133	\$13,298
<u>SERVICING EXPENSE</u>		
Local l/	\$36,201	\$36,201
Regional and System m/	23,215	23,215
Total Servicing Expense	\$59,416	\$59,416
Total Operating Expense	\$78,629	\$72,714
<u>COMMERCIAL REVENUE</u>		
Passenger n/	\$84,200	\$84,200
Other Commercial Revenue o/	4,235	4,235
Mail p/	2,418	2,418
Total Commercial Revenue	\$90,853	\$90,853
Operating Gain Before Return on Investment	\$12,224	\$18,139
Return on Investment q/	857	557
Operating Gain	\$11,427	\$17,582

a/ See BAO-8. Assumes 2 daily round trips (1) on segment 10 between Milwaukee and Appleton via Sheboygan, resulting in 7 miles of circuitry, or (2) on segment 2 between Milwaukee and Manitowoc via Sheboygan resulting in 0 miles of circuitry, using DC-3 equipment.

b/ System average for the 12 months ended 9-30-60.

c/ Scheduled stops and plane-miles multiplied by system performance factor.

d/ Derived by dividing flying operations and maintenance expense by system experienced cost per hour (\$85.46) for the 12 months ended 3-31-60.

e/ See BAO-10.

f/ See BAO-10.

g/ Computed at 6.93% of Passenger ton-miles - system average for the 12 months ended 9-30-60.

h/ Computed at 3.0% of Passenger ton-miles - system average for the 12 months ended 9-30-60.

i/ Computed at \$8.12 per stop and 50.96¢ per mile for DC-3 aircraft. (BAO-3).

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ESTIMATED ANNUAL COST OF PROPOSED SERVICE TO SHEBOYGAN, WISC., BY NORTH
CENTRAL AIRLINES, INC.
12 Months Ended September 30, 1961

Footnotes (Cont'd)

j/ The new system rate for depreciation and rental of flight equipment is computed as follows:

	Depreciation and Rental	On Segment 10		On Segment 2	
		Hours	Average Per Hour	Hours	Average Per Hour
System as of 9-30-60	\$668,387	87,686	xx	87,686	xx
This addition	0	194	xx	135	xx
New System	\$668,387	87,880	\$7.61	87,821	\$7.61

k/ Computed at \$5.42 per hour. System average for the 12 months ended 9-30-60.

l/ Computed from the equation $Y = \$3471 + (\$17.87 \times \text{tons originated}) + (\$4155 \times \text{employees})$. An average of 4 employees is estimated to be required during the year to handle the traffic volume forecast.

m/ 118,114 additional revenue ton-miles at a total cost of \$23,215.

Item (1)	System Yr. Ended 3-31-60 (2)	Addition Due to New Service (3)	System After Addition of New Service (4)
1. Revenue ton-miles	17,669,000	118,114	17,787,114
2. Revenue tons enplaned (including passengers at 190 pounds)	98,658	906	99,564
3. Revenue aircraft departures	168,093	1,421	169,514
4. Tons enplaned per departure	.5869	xxx	.5873
5. Average Haul (miles)	179.1	xxx	176.7
6. Haul-density index (000) items 1x4x5 for Col. 4)	xxx	xxx	1,866,767
7. In Col. 2, this page - computed expense of old system. (From Col. 9 of BAO-5). In Col. 4, this page, the expense of system after addition of new service, computed from equation at bottom of BAO-5.	3,712,000	xxx	3,734,476
8. Cost of addition due to new service (Item 7, Col. 4 less Item 7, Col. 2)	xxx	22,476	xxx
9. Cost of addition due to new service adjusted to carrier's own expense level. (Item 8, Col. 3 x Carrier's cost level of 103.29% from BAO-5, Col. 10)	xxx	23,215	xxx

n/ Computed at 7.45¢ per revenue passenger mile - system average for the year ended 9-30-60.

o/ Computed at .5638¢ per ton-mile - system average for the year ended 9-30-60.

p/ Computed at .7501¢ per ton-mile - system average for the year ended 9-30-60.

q/ Computed at \$4.42 per hour for DC-3 equipment. This figure was derived from the carrier's net book value for DC-3s as reported in the Form 41 reports for the year ended 12-31-59. It allows for a 10% return, present average rate of return for local carriers on final future rates, and for taxes.

UNITED STATES OF AMERICA
CIVIL AERONAUTICS BOARD
WASHINGTON, D. C.

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SERVICE TO SHEBOYGAN COUNTY, WISCONSIN

DOCKET 9767

In the matter of the application of Sheboygan County, Wisconsin, under section 401 of the Federal Aviation Act of 1958, as amended, for airline service at the Sheboygan County, Wisconsin, Airport.

INITIAL DECISION OF EDWARD T. STODOLA, HEARING EXAMINER

Served:

Upon:

Alexander Hopp, Corporation Counsel, Sheboygan County, County Court House, Sheboygan, Wisconsin, for Sheboygan County, Wisconsin.

A. L. Wheeler, 1522 Wisconsin Avenue, N. W. Washington 7, D. C. for North Central Airlines, Inc.

A. L. Wheeler, 1522 Wisconsin Avenue, N. W. Washington 7, D. C. for the Airport Committee of the Brown County, Wisconsin, Board of Supervisors.

A. L. Wheeler, 1522 Wisconsin Avenue, N. W. Washington 7, D. C. for the Citizens Airport Committee for Winnebago County, Wisconsin.

Donald J. Bero, Corporation Counsel, Manitowoc County, P. O. Box 365, Manitowoc, Wisconsin, for Manitowoc County, Wisconsin.

Woodrow A. Schmitz, City Attorney, P. O. Box 292, Manitowoc, Wisconsin, for the City of Manitowoc, Wisconsin.

Fred G. Dicke, City Attorney, P. O. Box 117, Two Rivers, Wisconsin, for the City of Two Rivers, Wisconsin.

Harry M. Shooman, Civil Aeronautics Board, Washington 25, D. C., for the Bureau of Economic Regulation of the Civil Aeronautics Board.

This decision shall become final 10 days after the date of service shown above and shall become effective upon the issuance of a Board order pursuant to Rule 28 of the Rules of Practice, unless within such 10-day period exceptions thereto are filed by one or more of the parties with the Docket Section, Civil Aeronautics Board, Washington, D. C., and served upon all other parties. If exceptions are filed within the period prescribed, briefs to the Board may be filed and served on all other parties within a further period of 20 days.

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UNITED STATES OF AMERICA
CIVIL AERONAUTICS BOARD
WASHINGTON, D. C.

SERVICE TO SHEBOYGAN COUNTY, WISCONSIN

DOCKET 9767

INITIAL DECISION OF EDWARD T. STODOLA, HEARING EXAMINER

It is found and concluded that the certificate of public convenience and necessity of North Central Airlines, Inc. be amended to authorize service at Sheboygan County, Wisconsin, as an intermediate point on segment 10 of the carrier's Route 86 between Milwaukee, Wisconsin, and Appleton, Wisconsin.

Appearances:

Alexander Hopp, for Sheboygan County, Wisconsin.

A. L. Wheeler, for North Central Airlines, Inc.

A. L. Wheeler, for Airport Committee of the Brown County, Wisconsin, Board of Supervisors.

A. L. Wheeler, for Citizens Airport Committee for Winnebago County, Wisconsin.

Donald J. Bero, for Manitowoc County, Wisconsin.

Woodrow A. Schmitz, for the City of Manitowoc, Wisconsin.

Fred G. Dicke, for the City of Two Rivers, Wisconsin.

Harry M. Shooman, for the Bureau of Economic Regulation of the Civil Aeronautics Board.

Introduction

This proceeding involves an application of Sheboygan County, Wisconsin, under section 401 of the Federal Aviation Act of 1958, as amended, proposing the authorization of air transportation of persons, property, and mail at the Sheboygan County, Wisconsin, Airport on either a permanent or temporary

basis. This application has been assigned Docket 9767.

The applicant is a municipal corporation of the State of Wisconsin whose principal city is Sheboygan, Wisconsin. It owns and operates a new Class 3 airport, known as the Sheboygan County Airport, located in the Town of Sheboygan Falls, about six miles west of the city of Sheboygan.

Sheboygan County joined with the various political subdivisions of the County of Sheboygan, including, among others, the city of Sheboygan, and with the several associations and chambers of commerce in the Sheboygan area, including, among others, the Sheboygan Association of Commerce, in making and filing the application under Docket 9767. In its basic plea for relief, the application requests that the Board "certify the Sheboygan County Airport for scheduled airline service by Ozark and/or North Central Airlines, Inc." As the only local service carrier operating in the Sheboygan area, North Central agreed to become a party to this proceeding with respect to all the issues raised by the application under Docket 9767.

Petitions for leave to intervene in this proceeding under Rule 15 of the Board's Rules of Practice in Economic Proceedings filed by the Airport Committee of the Brown County, Wisconsin, Board of Supervisors; the Citizens Airport Committee for Winnebago County, Wisconsin; the County of Manitowoc, Wisconsin; the City of Manitowoc, Wisconsin; and the City of Two Rivers, Wisconsin, were in each instance denied by the Examiner on the ground that no one of the foregoing petitioners had alleged an interest in the proceeding which was sufficiently direct to warrant formal intervention under Rule 15. Public hearings on the application under Docket 9767 were held in Sheboygan, Wisconsin, during March 22-24, 1961. During the hearings, each of the proposed intervenors as

well as each of the formal parties, was given full opportunity to participate in the evidentiary phase of the proceeding, including, among other things, the opportunity to submit evidence and to cross-examine witnesses.

Following the hearings, the Airport Committee of the Brown County, Wisconsin, Board of Supervisors and the Citizens Airport Committee for Winnebago County, Wisconsin, filed a joint appeal to the Civil Aeronautics Board from the Examiner's rulings denying the petitions for leave to intervene of foregoing two appellants. By Order E-16726, dated April 1, 1961, the Board allowed formal interventions for these two appellants. Accordingly, the Airport Committee of the Brown County Board of Supervisors and the Citizens Airport Committee for Winnebago County have been permitted to participate in this proceeding under Rule 15 of the Board's Rules of Practice. The County of Manitowoc, the City of Manitowoc, and the City of Two Rivers, no one of which appealed the Examiner's denial of their proposed intervention under Rule 15, have been and are hereafter permitted to participate in this proceeding under Rule 14 of the Board's Rules of Practice in Economic Proceedings.

Briefs to the Examiner were filed on or before June 23, 1961, by the County of Sheboygan; North Central; the Airport Committee of the Brown County, Wisconsin, Board of Supervisors; the Citizens Airport Committee for Winnebago County, Wisconsin; and the Board's Bureau of Economic Regulation. In general, North Central, the Airport Committee of Brown County, and the Citizens Airport Committee of Winnebago County oppose Sheboygan County's proposed certification of North Central at the Sheboygan County Airport. Subject to some reservations, the Bureau of Economic Regulation supports Sheboygan County's proposal.

Statement of Facts

At the outset, it must be noted as a decisional fact that any authorization for service at the Sheboygan County Airport would be subject to the Board's "use it or lose it" policy. The Board first developed its "use it or lose it" standards in proceedings which followed the enactment of the permanent certificate legislation in 1955 for local service operators. Thus, on December 8, 1958, the Board issued its decision in the first of the 12 countrywide local service investigations (Seven States Area Investigation, Docket 7454 et al., Order E-13254). In this decision the Board enunciated the "use it or lose it" policy which adopted as guidelines the following minimum traffic standards to be applied to average traffic generation during the first 12 months of service following the initial 6 months of service: (1) for an individual station, an average of 5 passenger originations daily, as a minimum; and (2) for a segment, an average of 7 passengers per flight, as a minimum. These standards, however, were not meant to be entirely inflexible. Among other things, factors of isolation and serious lack of surface travel facilities, neither of which is present in the instant situation, would be matters weighed by the Board in certificating a point which lacked the prospects of meeting the "use it or lose it" standards.^{1/}

^{1/} Cf. Trans-Texas Case, Docket 9961, Order E-14649, dated November 13, 1959, where the Board defined for the first time the "unusual or compelling circumstances" that it would consider in evaluating the need for continuing service at points which generated less than the standards required by the "use it or lose it" policy.

Sheboygan County had a 1960 population of 86,184 persons. In the same year, the city of Sheboygan had a population of 45,747 persons or about 53 per cent of the county's total inhabitants.

While the Sheboygan County Airport is presently suitable for DC-3 type operations, further improvements are planned which would make the airport adequate for larger equipment. The location of the field and navigation facilities in the area are such that there should be no problem with regard to use of the field even during adverse weather conditions.

Sheboygan is an industrially diversified city located on the west shore of Lake Michigan, about 57 miles north of the airport serving Milwaukee and about 28 miles south of the airport serving Manitowoc. The airport serving Winnebago County (the city of Oshkosh, Wisconsin) is about 51 road miles northwest of the city of Sheboygan.

The city of Sheboygan has experienced an industrial growth of about 32 per cent from the year 1957 to the year 1960. This rate of industrial expansion exceeded the rate of industrial growth of 19 per cent of the State of Wisconsin for the same period. Sheboygan is the business "hub" of East Central Wisconsin. While this city ranks ninth in size among Wisconsin urban centers, it ranks third in the volume of retail sales. This volume is in excess of \$70,000,000 per year. Sheboygan has an annual payroll in excess of \$60,000,000. The great variety of its industries, many of which are locally owned and operated, make Sheboygan a relatively stable community.

The effective buying income of the city of Sheboygan rose from over \$64,000,000 in 1950 to over \$96,000,000 in 1959, an increase of about 50 per cent. Sheboygan County shows approximately the same amount of growth in

effective buying income; the County experienced an increase in its effective buying income from over \$110,000,000 to over \$164,000,000 for the same period. The foregoing increase in the city's effective buying income is due in large part to the area's accelerated industrial expansion and its relatively stable employment conditions. There can be no question regarding the economic importance of the Sheboygan area. Its recent economic expansion and high employment are likely to continue in the future.^{2/}

As in the case of other cities in Wisconsin, Sheboygan has suffered from some deterioration in its rail services in the past decade. The city is served by the Chicago and Northwestern Railway Company. In 1950 the city had eight trains serving its passenger needs, but by 1955 there were but six trains serving the city. Between Sheboygan and Milwaukee there are three daily northbound and four daily southbound trips by rail. There is a possibility, however, that the city may lose more rail service in the future. Sheboygan is also served with four northbound and four southbound schedules of the Greyhound Bus Lines between Sheboygan and the airport at Milwaukee, but at present a traveler by auto must go through the heart of the city of Milwaukee to reach the airport.

Although the surface transportation available at the city of Sheboygan may be described as fairly good, this transportation does not meet the present

^{2/} The industrial growth of the Sheboygan area has been somewhat hampered for several years by a labor dispute and a strike at the Kohler Company. The Kohler Company is located in Kohler Village, a suburb of Sheboygan. The strike at the Kohler Company began on April 5, 1954. While the labor difficulties at the Kohler Company are not as yet completely settled, the company is presently operating with a full complement of workers.

and prospective needs of the city. The rail and bus schedules now available between Sheboygan and Milwaukee may be adequate to serve the local traffic needs between these two points, but they are not adequate to meet the needs of Sheboygan travelers beyond Milwaukee to the south. The principal airline service available to the traveling public at Sheboygan is the airport at Milwaukee, some 57 miles to the south. The travel time for an auto trip between Sheboygan and the Milwaukee airport is approximately 105 minutes.

Despite the fact that Sheboygan receives no air service, it already generates a considerable amount of air traffic through either the Milwaukee or Chicago airports. A survey by the Sheboygan Association of Commerce shows that 3,760 airline trips were made by 61 Sheboygan County firms in the year 1959 from airports outside of Sheboygan County. For the most part, the foregoing trips represented beyond-Milwaukee and beyond-Chicago traffic, enplaned at Milwaukee or Chicago. In addition, 503 trips by air were made by the 61 firms through the use of private and/or chartered planes.

The Security Travel Bureau, a ticket agency in Sheboygan, made a survey of actual air trip tickets sold during the year 1960. These ticket sales show 1,405 one-way Milwaukee-Chicago and Chicago-Milwaukee trips, 1,429 one-way beyond-Chicago trips originating or terminating at Chicago, 2,704 one-way beyond-Milwaukee trips originating or terminating at Milwaukee, and 104 one-way trips originating or terminating at points other than Milwaukee and Chicago. This 1960 ticket-sale survey, along with the 1959 survey of travel by Sheboygan business firms, shows an existing substantial use of air service by Sheboygan travelers, in spite of the inconvenience of not having air service available "at home."

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Further evidence of the present and prospective use of air service by residents of Sheboygan is reflected by the fact there are over 200 airline ticket credit card holders in Sheboygan County even though there is no service to the "home" airport. Fifty-six Sheboygan County firms have approximately 130 outside-of-Sheboygan County business locations throughout the United States. Sheboygan business firms are already making considerable use of air express and air freight via truck shipments to and from Milwaukee and Chicago. Finally, Sheboygan is the Post Office Department's regional collecting and dispatching center for 44 communities in four Wisconsin counties.

Sheboygan County, North Central, and the Bureau each estimate that approximately 8,000 passengers a year would be generated at the Sheboygan County Airport. Sheboygan County forecasts that 8,000 passengers would be generated at its airport during a one-year period from the seventh to the eighteenth month of certificated service. North Central forecasts that 7,228 passengers would be generated for a one-year period at the Sheboygan Airport should service be certificated to Sheboygan County. The Bureau estimates that a total of 8,680 origination and destination passengers would be generated to and from the Sheboygan County Airport during the forecast year ended September 30, 1961. Thus, all of the traffic forecasts of record are within very close range of each other. Although there is no substantial controversy as to the total number of passengers that will be generated by Sheboygan County, there is a considerable difference of opinion as to how this result is reached and where these passengers will go to make connections.

This latter question is commonly referred to as a distribution pattern. The type of distribution relied upon has a strong impact on the probable profitability of the proposed operation.

Sheboygan County's estimate is based upon the assumption that Sheboygan will be named an intermediate point on North Central's segment 10 between Appleton and Milwaukee. The County has applied a distribution pattern based upon the number of trips for the year 1959 that would have been made by air from the Sheboygan County Airport if service had then been available there as deduced from a survey of travelers of 61 Sheboygan area business firms. Under the County's estimated distribution pattern for both local and beyond-gateway traffic, 70 per cent of the estimated traffic would use the Chicago gateway, 22.8 per cent would use the Milwaukee gateway and 7.2 per cent would use the Minneapolis-St. Paul gateway.

North Central's traffic forecast for Sheboygan is based on the historic traffic generation at Manitowoc, as shown for the year ending October 31, 1960. During that year, 3,177 passengers were boarded at Manitowoc, and 3,311 were deplaned, making a total of 6,488 arriving and departing Manitowoc passengers. North Central's estimate is based upon Manitowoc's assumed location, 85 miles from Milwaukee, or an assumed location for Sheboygan geographically as far from Milwaukee as is Manitowoc, Wisconsin. Thus, if Sheboygan generated traffic comparable to the generation of Manitowoc in proportion to its size, economic importance and location, Sheboygan's origination and destination passengers would have been 7,228 for the year ending October 31, 1960. However, in order to measure Sheboygan's alleged

real traffic potential for the base forecast year, North Central decided to apply the Milwaukee distribution pattern to the estimated Sheboygan traffic. North Central contends it is appropriate to apply the Milwaukee distribution pattern to the Sheboygan traffic in view of Sheboygan's proximity (57 miles) to Milwaukee. On this basis, North Central then deducted 4,962 passengers from its total forecast for Sheboygan on grounds of proximity to Milwaukee, or self-diversion, leaving a net total of 2,266 new passengers to be generated at the Sheboygan County Airport. North Central then distributed the 2,266 passengers in a pattern similar to that of Milwaukee's historic origination and destination traffic.

The Bureau estimated that a total of 8,680 origination and destination passengers would be generated to and from Sheboygan during the future year ended September 30, 1961. The travel habits of nearby Wisconsin cities were examined to determine the historic traffic flow for the projected origination and destination passengers. The Bureau averaged the experience of Oshkosh, a city somewhat larger than Sheboygan, and Manitowoc, a city smaller than Sheboygan. Both cities received a pattern of service similar to that which Sheboygan will probably need, although Manitowoc is served by only two flights daily northbound and three flights southbound whereas Oshkosh has six such flights northbound and seven southbound. Historically, Manitowoc has been generating about 72 per cent of its traffic to and from Chicago and Oshkosh sends about 74 per cent of its traffic to Chicago. This distribution then seems quite typical of the Wisconsin area where Sheboygan is located.

In computing its passenger-generating index, the Bureau also took into account Sheboygan's proximity to its major travel markets. This proximity

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factor is based upon the determination that the average Sheboygan passenger will travel about 130 miles on North Central's system. This is a weighted distance and includes the probable traffic for Chicago, Minneapolis and Milwaukee. Since the vast majority of passengers from the Sheboygan County Airport will very likely go to Chicago, about 137 air miles distant, the Bureau's proximity index reflects the preference of the Sheboygan passengers to use air transportation over other forms of travel on trips to and from Chicago. On the other hand, if a larger proportion of the Sheboygan passengers should travel to Milwaukee, the index would be substantially reduced, since it has long been known that people will not use air transportation in preference to surface travel on travel segments of short distance.

From the total estimates of passengers and passenger miles, Bureau Counsel deducted the self-diversion which North Central would suffer, i.e., the current Milwaukee-Chicago passenger miles generated by passengers who would be enplaning at Sheboygan. This amount of self-diversion was calculated from a survey of the Security Traffic Bureau, a travel agency in Sheboygan, which shows a tabulation of the routings for the tickets sold in the year 1960 by that agency in Sheboygan. This survey shows that of the 1,405 one-way Sheboygan passengers on the Milwaukee-Chicago or Chicago-Milwaukee routing, a total of 985 or approximately 70 per cent of such passengers used the services of North Central. But the Milwaukee-Chicago segment one-way passengers represented only about 25 per cent of a total of 5,642 passengers one-way Sheboygan travelers accounted for in the survey. Of the foregoing total, 4,237 one-way Sheboygan travelers did not use the Milwaukee-Chicago segment at all.

And of the latter group, 1,429 Sheboygan travelers or approximately 34 per cent used the Chicago gateway exclusively whereas 2,704 or about 64 per cent used the Milwaukee gateway exclusively, and the small remainder used other routings. With direct service to Chicago, it is not unreasonable to expect that a larger proportion of the beyond-Milwaukee and beyond-Chicago passengers would use the Chicago gateway.

North Central's application of the Milwaukee distribution pattern for the projected Sheboygan traffic must be rejected. It is unrealistic to assume that the traffic distribution for a relatively small traffic generating point like Sheboygan, which would receive service from only one local service carrier on one segment, might follow the origination and designation pattern of a medium-sized traffic hub like Milwaukee, which receives service from numerous trunk and local service operators in all directions. Nor do the facts of record support North Central's application of the Milwaukee distribution pattern to the probable Sheboygan traffic. Thus, the preponderance of the evidence adduced at the hearing demonstrates that Sheboygan County's primary community of interest for air travel is with Chicago, New York and Minneapolis-St. Paul, in that order. North Central entirely omitted the Twin Cities as a gateway to the northwest for Sheboygan traffic, although the facts of record show that a near 10 per cent of Sheboygan's probable total traffic would go to and/or through the Twin Cities' gateway. As a matter of fact, North Central could produce no actual routings of Sheboygan travelers who now use air service to support the Milwaukee distribution pattern and no reliable evidence as to how much of North Central's present Milwaukee-Chicago

traffic would result in self-diversion if Sheboygan County were certificated. The best evidence of record of the probable routings of the projected Sheboygan traffic was submitted by Sheboygan County in its analysis of the air transportation sold in Sheboygan in 1960. From this analysis, it is evident that a substantial portion of Sheboygan's beyond-Milwaukee and beyond-Chicago traffic would use the Chicago gateway. While Sheboygan is only 57 miles from the Milwaukee airport, this proximity factor loses some of its meaning because of the necessity of traveling through the city of Milwaukee to reach the Milwaukee airport. Nor does Milwaukee offer the wide variety of connecting flights which are available at Chicago for long-haul flights to either the East or the West. Accordingly, it is found that the Bureau's estimates, which coincide with those of Sheboygan County, are a sound and reasonable projection of the manner in which the probable Sheboygan traffic would be distributed.

Since there is no issue among the parties regarding the approximately 8,000 passengers which Sheboygan is expected to generate annually, and having decided that the Bureau's distribution pattern is the best index of record as to how and where those passengers would travel, the next question is the probable cost of the service at Sheboygan to the Government. As in the case of other local service carriers, North Central is a subsidized operator and it is necessary to weigh the probable public benefits of service at the Sheboygan County Airport against the probable cost to the Government in the event service at this point cannot be shown to be self-sustaining.

Sheboygan can be served on either of two segments of its Route 86, with apparent profit to the carrier from service on either segment. North Central could serve Sheboygan by having this city certificated on segment 2 of its Route 86 as an intermediate stop between Milwaukee and Manitowoc with no circuitry whatsoever, if Sheboygan were added to the existing scheduled flights on that segment.^{3/} Sheboygan could also be added as an intermediate stop between Milwaukee and Appleton on segment 10 of Route 86. The certification of Sheboygan on this latter segment would involve only a 7 mile circuitry.

If Sheboygan were served on existing flight schedules for segment 10, North Central would realize an operating gain, before return on investment, of \$9,270 and a net operating gain, after return on investment of \$8,413, as reflected in the calculations set forth in Appendix A attached hereto. The foregoing estimates of operating results have been adjusted to reflect the self-diversion from North Central represented by the Sheboygan traffic currently carried by North Central between Milwaukee and Chicago. If it be contended that the number of passengers surveyed by Sheboygan County as currently using air service is less than the total forecast traffic for this point, a calculation of the proportion of the self-diverted traffic revenues of the passengers already using air service and applied to the total forecast traffic revenues would reduce the carrier's operating gain by only \$2,400. This adjustment is shown on footnote 2 of Appendix A. On the other

^{3/} Segment 2 of Route 86 runs from the terminal point Chicago, the intermediate points Milwaukee, Oshkosh, Manitowoc, Green Bay, Marinette-Menominee, Escanaba, Iron Mountain, and Marquette to the terminal point Hancock-Houghton. Segment 10 of Route 86 runs from the terminal point Minneapolis-St. Paul, the intermediate points Eau Claire, Marshfield, and Appleton to the terminal point Milwaukee.

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hand, it must be noted that the number of Sheboygan travelers shown to be now using air travel in spite of the necessity of connections away from "home" is surprisingly high and it may be that the forecast potential for this city may be considerably understated. If the latter should turn out to be true, the larger total operating revenues would more than offset the increased amount of self-diversion.^{4/}

Segment 10 is presently under consideration for continued service under the Board's "use it or lose it" policy in Docket 12127, North Central Airlines "Use It or Lose It" Investigation. North Central presently operates four DC-3 flights a day over segment 10. Flight 451, is a morning northbound flight originating at Chicago and terminating at Minneapolis/St. Paul via Appleton, Marshfield and Eau Claire; the southbound flight, designated as Flight 456, returns over the same routing in the afternoon. Flight 251 is a northbound flight from Chicago to Appleton via Milwaukee, and returns late afternoon as Flight 252. However, should the Board decide to eliminate segment 10, as a result of the "Use It or Lose It" Investigation in Docket 12127, Sheboygan could be placed on a revised segment 1, including Appleton and Sheboygan and served on the same flight routing as presently operated over segment 10, without additional circuitry or cost to the carrier.^{5/}

^{4/} Following the methodology of the calculations shown in Appendix A attached hereto, service at Sheboygan as an intermediate stop on segment 2 between Milwaukee and Manitowoc would result in an operating gain for the carrier before return on investment of \$15,105 annually, or a net operating gain, after return on investment, of \$14,503 per annum.

^{5/} In view of the decision to certificate Sheboygan on segment 10 or a revised segment 1, the protests of the Airport Committees of Brown and Winnebago Counties to the effect that the certification of Sheboygan on segment 2 would downgrade the service at Green Bay and Oshkosh are academic.

Although North Central opposes the certification of Sheboygan on any segment of its present route system, the carrier has submitted exhibits designed to show that a break-even need before return on investment of \$28,804, or a total subsidy of \$29,488 would be required annually if Sheboygan were to be served on segment 10. This estimate, however, reflects an improper distribution of the probable traffic to be generated at the Sheboygan County Airport and an excessive amount of self-diversion. Thus, the carrier forecasts that Sheboygan would generate 7,228 origination and destination passengers, of which only 2,306 would be to or from Chicago. The carrier then estimates that 50 per cent of the 2,306 Chicago passengers would not use the service from Sheboygan because of its proximity to Milwaukee. It further estimates that 60 per cent of these same passengers would result in self-diversion to the carrier. It is clear that this volume of alleged self-diversion is excessive. As already shown herein, only 985 Sheboygan travelers actually used North Central's service on the Milwaukee-Chicago segment during the year 1960. Thus, North Central erroneously deducted 179,176 revenue passenger-miles, or about 56 per cent of the total Sheboygan-Chicago market, on the grounds of proximity and self-diversion which represents approximately \$13,300 in additional revenues in this market alone. In view of the foregoing, it is clear that service at the Sheboygan County Airport would result in a reduction of North Central's break-even need rather than an added subsidy charge to the Government.

Aside from the question of the probable operating results of service at Sheboygan County Airport, North Central opposes the certification of Sheboygan

County on the ground that the carrier would then be operating into too many airports in the Sheboygan area. The carrier points to Sheboygan's proximity to Milwaukee and to Manitowoc. It points to the proximity of Appleton to Green Bay--cities only 23 miles apart--both of which are certificated points and receive daily service from North Central. It fears that once Sheboygan is certificated for service, the city of Fond du Lac, located only 15 miles from Oshkosh and 36 miles from Sheboygan might also seek certification.

The carrier thus raises a serious objection to the certification of Sheboygan County. It involves the broad question of whether or not closely located or adjacent cities would not be better served through regional air fields. This question is particularly serious in the local service field, which is in part subsidized through the Federal Treasury and where the Board has for some time now been trying to eliminate unnecessary costly operations through its "use it or lose it" program.

As the multiplicity of railway stations in some of our larger cities has burdened railroad operations and rail travel,^{6/} the problem of too many airports at closely located urban centers which could be more efficiently served through centralized airport facilities has plagued the Board for years. Recently the current Chairman of the Board has stressed that the logical solution to this problem lies in the establishment and acceptance of the idea of regional airports.^{7/}

^{6/} For example, the Chicago city limits are served by eight major railway stations in the passenger service and by over 30 depots in the freight service. It is impossible for passengers to travel by train from points east of Chicago to points west without changing trains and stations at Chicago.

^{7/} Hon. Alan S. Boyd, Chairman of the Civil Aeronautics Board, in a speech on March 18, 1961, before the Orlando, Florida, Junior Chamber of Commerce and in his address on June 29, 1961, before the Fourteenth Annual Convention of the New England Conference of Public Utilities Commissioners at Newport, Rhode Island.

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The reasons for the idea of regional airports are quite simple. Even the DC-3 aircraft, whose operating costs are less than newer equipment used by the local service operators, is an expensive airplane to operate. The aircraft that goes up in airline service, must come down. The shorter the average hop in such service, the higher the operating costs. It costs North Central about 68 cents per aircraft mile to operate a DC-3 on an average hop of about 82 miles for that type of equipment on its system. The certification of Sheboygan on either segment 2 or segment 10 will shorten that average hop somewhat for the carrier's DC-3 operations. Each landing of a DC-3 costs the carrier about \$55.00, inclusive of such charges, among others, as salaries for the crew, landing fees and ground operations. The more frequent the landings and departures, the higher of course the overall operating expense. The costs per stop rise precipitously with the use of larger and newer equipment. North Central's Convair-340 costs in excess of \$126.00 per stop or about \$1.20 per aircraft plane mile on an average hop of approximately 108 miles on its present system.

It is no doubt true that a joint airport facility for cities located as closely together as Sheboygan and Manitowoc and others would be less expensive to the taxpayers and more desirable for air transport operations. North Central is of the view that Sheboygan, Manitowoc, Fond du Lac and New Holstein and perhaps other cities in the Sheboygan area should be served through one airport. If Sheboygan is certificated and generates enough traffic to support a subsidy-free operation, North Central may then request that Manitowoc be served out of the Sheboygan County Airport.

The issue of service for Sheboygan through an airport other than its own is not involved in this proceeding. We are here faced with an accomplished fact. Manitowoc and Sheboygan each has its own airport and Manitowoc already has air service. Moreover, it appears clear of record that Sheboygan is likely to generate considerably more traffic annually than is now being generated at Manitowoc.

There are other factors which make it desirable to certificate service at Sheboygan. While Manitowoc is only about 28 miles from Sheboygan, it lies north of Sheboygan and about 90 per cent of Sheboygan's air traffic would be moving south to Milwaukee and Chicago or points beyond the latter cities. Sheboygan passengers can hardly be expected to go 28 miles north by surface transportation in order to reach Milwaukee 57 miles to the south of Sheboygan. In addition to the added travel time and cost of transportation, such passengers would have to pay additional airline fare for the backhaul. Rail service from Sheboygan to Manitowoc does not make convenient connections with North Central's flights at Manitowoc. With respect to North Central's contention that Sheboygan passengers may easily travel to Milwaukee to make air connections, the fact is that Sheboygan is not conveniently located to the Milwaukee airport. Rail services between Sheboygan and Milwaukee are not timed to airplane departures and arrivals at the Milwaukee airport and require considerable travel time between the railway stations at Milwaukee and the Milwaukee airport. As already noted, private auto travel necessitates a trip through the city of Milwaukee with a total travel to the airport of about 105 minutes. While the proposed Milwaukee expressway system for a portion of the surface route to the Milwaukee

airport would lessen the time required for such a trip, this expressway plan may not be completed for years to come. In any event, travel by private automobile to the Milwaukee airport necessitates leaving the air passenger's auto at the airport for the duration of the plane trip or compelling someone else to drive the round trip between Sheboygan and the Milwaukee airport to enable the passenger to start his air journey. The 7,200 (90 per cent of the forecast potential) Sheboygan residents traveling south of their city deserve a more convenient way of traveling by air.

Summary of Ultimate Facts

Sheboygan's size, its diversified and growing economy, its substantial present use of air travel via airports away from home and its potentially excellent airfield facilities, all point to the need of certificated air service at the Sheboygan County Airport. Significantly, the residents of Sheboygan County already use air travel in a volume in excess of the origination standards of the Board's "use it or lose it" policy. The 5,642 one-way air tickets sold by a single travel agency in the city of Sheboygan is a highly encouraging index of Sheboygan's traffic potential as a certificated city. Equally favorable are the near unanimous estimates of record that the Sheboygan County Airport is likely to generate approximately 8,000 passengers annually. While traffic forecasts are not and by their nature cannot be mathematical certainties, the actual use of air travel by Sheboygan residents through connections at other cities points to the reasonableness of the forecast air traffic potential at the Sheboygan County Airport or even a probable

understatement in that estimate of the passenger traffic which may be generated at this airport. Under that potential, North Central stands to realize an operating profit of about \$8,413 annually from its service at Sheboygan County Airport. The foregoing factors clearly establish that considerable public benefits would be derived from the certification of North Central at Sheboygan County Airport.

Present surface travel facilities for Sheboygan residents to the cities of Milwaukee and Chicago, the primary destination of approximately 90 per cent of the forecast traffic, are not convenient enough in either time or in frequency to make for adequate air transportation for the people residing in the Sheboygan area. It would obviously be unjust and inconsistent with the developmental purposes of the Federal Aviation Act to deny out of hand Sheboygan County's request for air service on the ground that connections for such travel may be made through surface transportation to Milwaukee and/or Chicago. Since time is of the essence in any decision to use air travel over other means of transportation and since air transportation is a virtual necessity for the commercial and industrial enterprises of Sheboygan County in their competition with similar enterprises elsewhere, it is necessary that the residents of Sheboygan County have air service at a point more accessible than either Milwaukee or Chicago. Moreover, in addition to the need for service at the Sheboygan County Airport for passenger travel, the record demonstrates that the Sheboygan area will also make considerable use of such service for air mail, air express and air freight. Finally, even though Sheboygan's proximity to other airports be recognized as a serious problem, its promise

as a good traffic generating point at its own air field is well established in the record and the residents of the Sheboygan area should be allowed to demonstrate their need for direct service at home. If eventually service at either Manitowoc or Sheboygan must give way to service at only one of these cities, the sound solution to the problem is to let the demands of traffic decide which city's air facilities would better serve the regional air traffic requirements of the Manitowoc-Sheboygan area. Accordingly, it is found that the public convenience and necessity require air service now at the Sheboygan County Airport.

Even though the operating gain for North Central would be somewhat smaller in serving Sheboygan on segment 10 rather than on segment 2 of its Route 86, it is further found that the Sheboygan County Airport should be certificated on segment 10. Since Manitowoc, an intermediate point on segment 2, is only 28 miles from Sheboygan, it is obvious that this is too short a distance within to make another stop on that segment. Placing Sheboygan on segment 2 would therefore provide considerable inconvenience to traffic north of Sheboygan on that segment. There is also a greater community of interest for the Sheboygan travelers at Minneapolis-St. Paul served by segment 10 of North Central than there is between Sheboygan and Green Bay and points north of Green Bay on segment 2.

North Central is an operating air carrier holding certificates of public convenience and necessity and air operating certificates. Its history of successful operations leaves no doubt that it is legally fit and able to perform the services herein found required by the public convenience and

necessity at the Sheboygan County Airport. While North Central is a subsidized local service carrier, the proposed service at Sheboygan County Airport should not add to its subsidy requirements in any way. On the contrary, North Central's service at the Sheboygan County Airport would in all probability be a profitable operation for the carrier.

There is no question as to the Board's power to compel North Central to provide the service at the Sheboygan County Airport, should it find that the public convenience and necessity require it. The Board has stated on more than one occasion that it has the power under section 401(h) of the Act to alter, amend, or modify a carrier's certificate to authorize service, even though the carrier may be unwilling to render such service.^{8/} The Board has held that the willingness of a carrier to render a particular service is not a prerequisite to the exercise of the Board's power under section 401(h) of the Act to alter, amend, or modify the carrier's certificate to authorize such service. The Board has concluded that section 401(h) "does authorize the Board to add new points or services to the certificate of a carrier on the Board's own initiative and without an application by, and the consent of, the carrier."^{9/} The limitation observed by the Board that "this authority does not include the addition of new service which would be so extensive as to amount to a new air transportation route or of such a kind as to substantially change the character of a carrier's system"^{10/} is not applicable here.

^{8/} Braniff Route Extension Investigation, 23 C.A.B. 814, 816 (1956).

^{9/} Panagra Terminal Investigation, 4 C.A.B. 670, 673 (1944).

^{10/} Ibid.

Conclusions

On the basis of the foregoing findings and all the facts and considerations of record, it is concluded that the public convenience and necessity require the certification of North Central Airlines at the Sheboygan County Airport in Sheboygan County, Wisconsin, and that North Central's certificate of public convenience and necessity should be amended by designating Sheboygan, Wisconsin, as an intermediate point on segment 10 of the carrier's Route 86.^{11/} It is also concluded that North Central is legally fit and able to provide the air service at Sheboygan County Airport as required by the public convenience and necessity. It is further concluded that the service authorized at the Sheboygan County Airport should extend for an indefinite period of time, subject to the Board's "use it or lose it" policy.

Edward T. Stodola

Edward T. Stodola
Hearing Examiner

^{11/} Under the conclusions stated above, segment 10 of North Central's Route 86 would be amended as follows: Between the terminal point Minneapolis-St. Paul, Minn., the intermediate points Eau Claire, Marshfield, Appleton, and Sheboygan Wis., and the terminal point Milwaukee, Wis.

Estimated Annual Cost of Service to Sheboygan,
Wisconsin By North Central

Financial and Operating Data for Operations on Segment 10

Revenue Plane Miles <u>1/</u>	9,944
Revenue Stops <u>1/</u>	1,421
Number of Passengers <u>2/</u>	8,680
Revenue Passenger Miles <u>2/</u>	1,050,234
Total Ton-Miles <u>4/</u>	109,679
Total Revenues <u>3/</u>	\$84,420
Total Expenses <u>4/</u>	\$75,150
Operating Gain Before Return on Investment	\$9,270
Return Element <u>4/</u>	\$357
Operating Gain	\$8,913
Ratio of Operating Gain to Total Revenue <u>5/</u>	.11

1/ Assumes 2 daily round trips on segment 10 between Milwaukee and Appleton via Sheboygan.

2/ Based on Exhibit BEE-10, less self-diversion as shown in Exhibit SHE-37 computed by multiplying 985 MKE-CHI passengers by 82 miles. Another method of computing self-diversion would be to take the reported percent of MKE-CHI self-diversion shown on Exhibit SHE-37 (985 ÷ 5,642 or 17.5%) and apply it to the total estimate of 8,680 passengers. This diversion of 124,558 passenger miles (17.5% x 8,680 passengers x 82 miles) subtracted from the passenger miles shown on Exhibit BEE-11 would still result in an operating gain before return on investment of \$6,008.

3/ Passenger revenue, other commercial revenue and mail revenue computed from yields in carrier's Form 41 reports for the year ended 9-30-60.

4/ Based on the method developed by the Bureau of Economic Regulation in its Direct Exhibits.

5/ This ratio indicates that the carrier earns an 11¢ profit on each dollar of revenue before return on investment.

PROOF OF SERVICE

has been served on

JUL 17 1951

FILED
SHEBOYGAN COUNTY

Service & Mail Clerk

DOCKET NO. 9767

INITIAL DECISION

CERTIFIED

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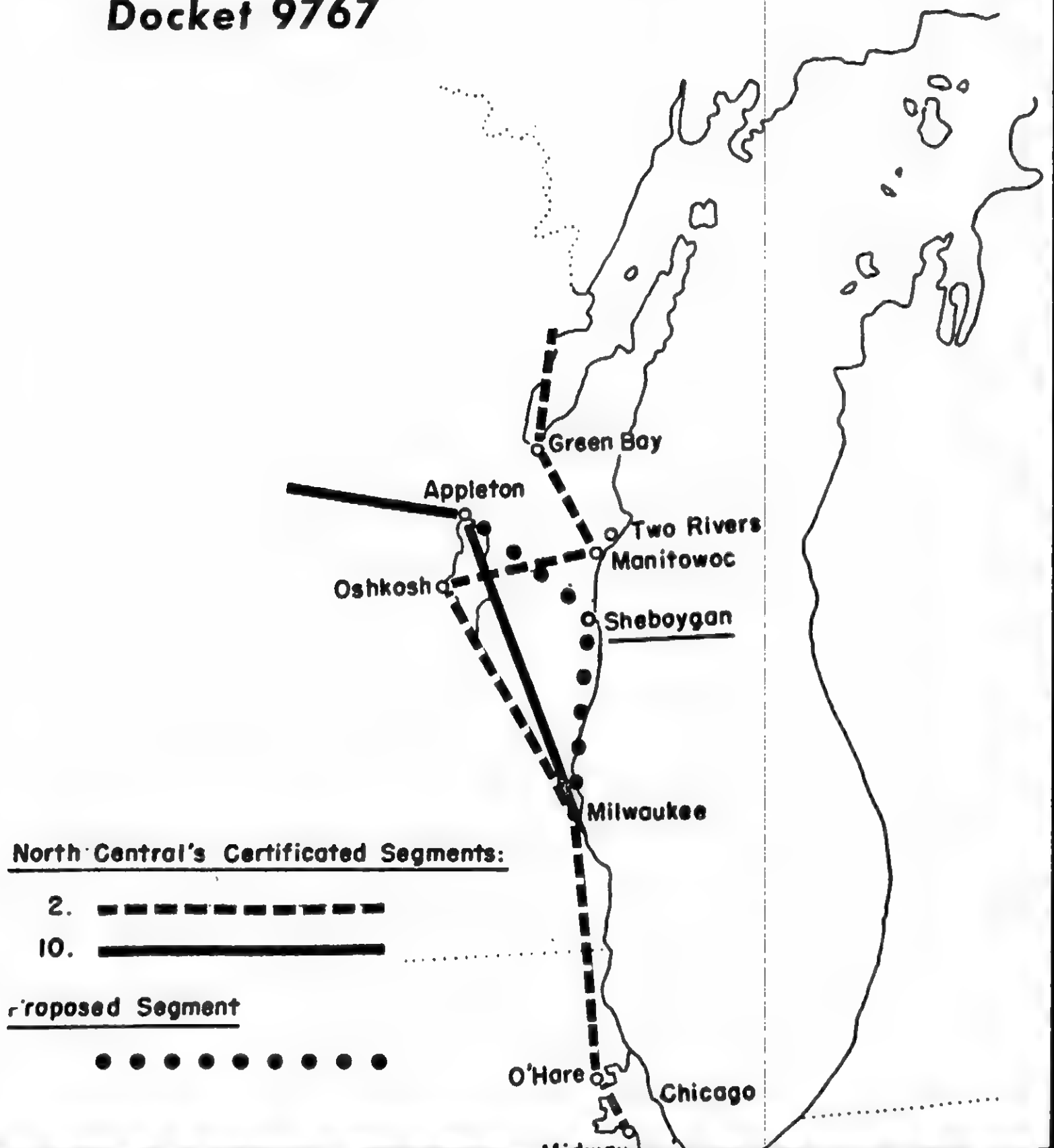
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DOCKET SECTION

SERVICE TO SHEBOYGAN, WIS., CASE

Docket 9767



1273

E-18024

UNITED STATES OF AMERICA
CIVIL AERONAUTICS BOARD
WASHINGTON, D. C.

SERVED FEB 15 1962

DOCKET 9767SERVICE TO SHEBOYGAN COUNTY, WIS.

Decided: February 14, 1962

Proceeding remanded for the purpose of determining whether the public convenience and necessity require, and whether the Board should order, the alteration, amendment, or modification of North Central's certificate of public convenience and necessity so as (a) to designate Sheboygan and Manitowoc, Wis., as a single point on segments 1, 2, and/or 10 of its route 86; and (b) to authorize service through a single designated airport.

APPEARANCES:

Same as in the Initial Decision.

Order No. E-18024

UNITED STATES OF AMERICA
CIVIL AERONAUTICS BOARD
WASHINGTON, D. C.

Adopted by the Civil Aeronautics Board
at its office in Washington, D. C.,
on the 14th day of February, 1962

In the matter of

SERVICE TO SHEBOYGAN COUNTY, WIS.

Docket 9767

OPINION AND ORDER

By GILLILLAND, Member:

This proceeding involves an application of Sheboygan County,
Wisconsin for air service at Sheboygan County Airport.^{1/}

After due notice a public hearing was held before Examiner Edward T. Stodola, who thereafter issued his Initial Decision. The Examiner found that North Central should be required to provide service at Sheboygan County Airport, Sheboygan County, Wisconsin, for an indefinite period subject to the Board's "use it or lose it" policy, by amending the carrier's certificate to designate Sheboygan, Wis., as an intermediate

^{1/} Various municipalities within the county and various civic groups in the area joined in the application. Leave to intervene was requested by the Airport Committee of the Brown County, Wisconsin, Board of Supervisors; the Citizens Airport Committee for Winnebago County, Wis.; the County of Manitowoc, Wis.; the City of Manitowoc, Wis.; and the City of Two Rivers, Wis., and in each instance denied by the Examiner. On appeal by the Airport Committees, the Board by Order E-16726, dated April 27, 1961, permitted formal intervention for these two applicants.

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point on segment 10 of its route 86, between Appleton and Milwaukee, Wis.^{2/} Exceptions to the Initial Decision have been filed by North Central, briefs to the Board have been submitted, and oral argument has been heard.

Upon consideration of the entire record, the Board concludes that the proceeding should be remanded to the Examiner for further hearings to consider (1) whether North Central should be authorized to provide service to the Manitowoc and Sheboygan areas as a single certificated point, (2) if so, whether such point should be served through a single airport designated by the Board, and (3) over which segment of North Central's route 86 such service should be provided.^{3/}

^{2/} Segment 10 runs between Minneapolis-St. Paul, Minn., and Milwaukee, Wis., via Eau Claire, Marshfield and Appleton, Wis. The Examiner concluded in the alternative that Sheboygan, Wis., should be certificated on a revised segment 1 of North Central's route 86, in the event that segment 10 should be eliminated from North Central's certificate as a result of the North Central Airlines "Use It or Lose It" Investigation, Docket 12127, instituted pursuant to Order E-16373, dated February 16, 1961, and presently pending before the Board. Segment 1 extends between the terminal point Chicago, Ill., on the one hand, and the terminal points Minneapolis-St. Paul, Minn. (via Milwaukee, Green Bay, Madison, Wisconsin Rapids-Stevens Point, Wausau, and Eau Claire, Wis.), and Duluth, Minn.-Superior, Wis., on the other hand (via the same intermediate points to Wausau and beyond Wausau to Rhinelander and Land o' Lakes, Wis., Ironwood, Mich., and Ashland, Wis.).

^{3/} North Central is presently authorized to provide service to Manitowoc, Wis., on segment 2 of route 86. Segment 2 extends between Chicago, Ill., and Hancock-Houghton, Mich. (via Milwaukee, Oshkosh, Manitowoc, and Green Bay, Wis., Marinette, Wis.-Menominee, Mich., and Escanaba, Iron Mountain-Kingsford, and Marquette, Mich.).

In arriving at his decision that Sheboygan should be certificated as a separate point for service through its own airport, the Examiner recognized that the multiplicity of communities in the Sheboygan-Manitowoc area, which have or may desire direct air service, poses the problem of whether the area could not be better served through centralized airport facilities.^{4/} It was his view, however, that since Sheboygan shows promise of developing as a good traffic point which could be served profitably by North Central, it should now be given the direct service it requests, and that consideration can be given at a later date to possible consolidation of service at a single airport should circumstances warrant. Further, he found that "The issue of service for Sheboygan through an airport other than its own is not involved in this proceeding."^{5/}

^{4/} Within a quadrangular area of 120 miles in length and 42 miles in width, there are nine principal airports located in the proximity of the following communities: Milwaukee (2), Fond du Lac, Sheboygan, Manitowoc, Oshkosh, Appleton, Green Bay and Clintonville. North Central currently provides service at six of these cities as points on its route 86, viz., Milwaukee, Manitowoc, Oshkosh, Appleton, Green Bay, and Clintonville. According to North Central's evidence, the remaining three airports are suitable for certificated commercial service. (NOR. Exh.-R-13). Within a similar quadrangular area of about one-half this size, comprising the Sheboygan-Manitowoc area, are located six of these airports, four of which are provided with air service by North Central, viz., Manitowoc, Oshkosh, Appleton, and Green Bay. (NOR Exh.-R-13A). In addition, as the Examiner has indicated, North Central has expressed concern that if Sheboygan is certificated for service in this area the city of Fond du Lac, only 15 miles from Oshkosh and 36 miles from Sheboygan, might also seek certification.

^{5/} I.D., p. 19.

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Our review of the record discloses the existence of substantial factors that may support or require the provision of North Central's service to the Sheboygan-Manitowoc area as a single point. Sheboygan and Manitowoc are in close geographic proximity, being only 28 miles apart; each has an airport suitable for North Central's operations; surface transportation is available between the two cities; and each has its predominant community of interest with Milwaukee and Chicago, which lie relatively short distances to the south. North Central presently serves Manitowoc, and if operations in the area were consolidated at Manitowoc or Sheboygan, as the case may be, it is possible that the carrier would be able to effect substantial economies in its operations while, at the same time, providing a better pattern of service for the traveling public to and from the area as a whole. While it would appear, as the Examiner found, that Sheboygan could be expected to generate a reasonable amount of traffic, that is only one of the numerous factors to be considered in deciding whether the separate designation of two nearby small cities is justified. As we have had occasion to note, "The Board is properly concerned with the need for reducing the cost to the government of providing air service particularly to the smaller traffic-generating communities whenever it can be accomplished without causing serious inconvenience to the traveling public."^{6/}

^{6/} Pacific-Southwest Local Service Case, Order E-17950, January 23, 1962 (p. 78, mimeo.).

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Although, as we have indicated, there may be inherent in the present situation the normal considerations which tend to favor the use of a single or regional airport in the provision of service to a given area, the Board is unable to determine upon the present record whether the public convenience and necessity so require in this particular instance. We have already noted that the Examiner did not consider the question to be in issue, and it was not adequately explored before him. Also, Manitowoc, which has a clear interest in resolution of the question, did not actively participate herein. However, we believe, unlike the Examiner, that the record on this matter should be fully developed before the Board undertakes to authorize service at an additional point in a general area where North Central is already obligated to provide a substantial amount of service on short-haul flights at close-by airports. Should the record show, after full exploration of the problem, that Sheboygan should be certificated as a separate point, we will, of course, be free to take such action.

In view of the foregoing, we will remand this proceeding for such further evidence and consideration as the issues on remand may warrant.

ACCORDINGLY, IT IS ORDERED:

1. That this proceeding be and it hereby is remanded to the Examiner for the purpose of further hearings to determine whether the public convenience and necessity require, and whether the Board should order, the alteration, amendment, or modification of North Central's certificate of public convenience and necessity so as (a) to designate Sheboygan and

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Manitowoc, Wis., as a single point on segments 1, 2 and/or 10 of its route 86; and (b) to authorize service through a single designated airport;

2. That Manitowoc County, Wisconsin, and the City of Manitowoc, Wisconsin, be and they hereby are made parties to this proceeding.

Murphy, Vice Chairman, Gurney and Minetti, Members of the Board, concurred in the above opinion and order. Boyd, Chairman, did not take part in the decision.

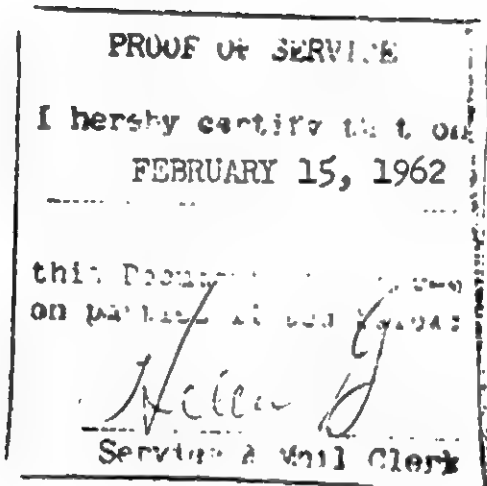
/s/ Harold R. Sanderson

Harold R. Sanderson
Secretary

(SEAL)

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DOCKET NO. 9767
ORDER NO. E-18024



OPINION AND ORDER

CERTIFIED

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Examiner: Stodola Room 727
Counsel: Shocman B-72 B-74

TESTIMONY OF T. K. JORDAN

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T. K. JORDAN

was called as a witness for and on behalf of the State of Wisconsin, and, having been duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

By Mr. Bowers:

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Q Mr. Jordan, will you state your name for the record, please, and your occupation?

A My name is T. K. Jordan, J-o-r-d-a-n. I am Director of the Wisconsin State Aeronautics Commission, offices at Madison, Wisconsin.

* * * * *

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Examiner Stodola: You have made commitments for the improvement of that airport?

The Witness: Well, on another runway, sir. We are in the process of improvement projects on the Manitowoc airport now.

Examiner Stodola: In other words, the commitments have been made for improving the airport in Manitowoc?

The Witness: That's right.

Examiner Stodola: By the State of Wisconsin?

The Witness: That's correct.

Examiner Stodola: You know in what amount?

The Witness: The current project is about \$210,000.00.

Examiner Stodola: The State of Wisconsin is committed?

The Witness: The total cost of the project, and the State's share is about 39,000.

Examiner Stodola: The State's share is 39,000?

The Witness: That's right.

Examiner Stodola: And that commitment's been made?

The Witness: That's right.

Examiner Stodola: And it's not revokable?

The Witness: I would say so, no.

Examiner Stodola: You know whether the FAA has made any commitments?

The Witness: Yes, they have. The FAA has a commitment of about -- has made commitments of fifty per cent of the cost of the current improvements.

Examiner Stodola: So how does this divide? The total cost is what again?

The Witness: The total cost is around \$210,000.00. I don't have an exhibit right here in front of me. I think the evidence is in the record though.

Examiner Stodola: Is it in the record?

Mr. Bero: Yes, Mr. Examiner. That's what I was going to point out. That's in the Exhibits 520 and 21 of MTR-5.20 and 5.21. It will also be in the testimony on page four of testimony MTR-T-4. Those specific questions, as well as referring to the Federal grant agreement by specific number.

Examiner Stodola: Whose testimony?

Mr. Bero. Mr. Louis Kagel and the Federal grant --

Examiner Stodola: Manitowoc's testimony?

Mr. Bero: Right.

Examiner Stodola: I see.

POSITION OF FAA RE AIRPORT IMPROVEMENTS

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(Whereupon Exhibit BER-13 was copied into the record as follows:)

FEDERAL AVIATION AGENCY STATEMENT ON
THE REGIONAL AIRPORT ISSUE IN THE SERVICE TO
SHEBOYGAN CASE, DOCKET 9767

As shown in the exhibits prepared by the Federal Aviation Agency, the estimated costs of improving the Manitowoc County Airport, the Sheboygan County Airport, or the development of a new airport midway between the two cities range as follows, depending upon the aircraft to be accommodated?

Manitowoc	\$ 288,000	to	\$ 554,000
Sheboygan	183,600	to	432,350
New site	1,227,350	to	1,658,900

In view of the fact that the Manitowoc and Sheboygan airports are only approximately thirty miles apart and within thirty to forty five minutes driving time, we feel that no undue hardship would be imposed upon the public in providing air carrier service to both of these communities through the use of one of the existing airports. It is, therefore the opinion of the FAA that the development of both existing airports to the extent necessary to accommodate air carrier service at Manitowoc and Sheboygan, separately, cannot be economically justified. Likewise, the Federal Aviation Agency would be disinclined to participate financially under the terms of the Federal-aid Airport Program in the development of a third

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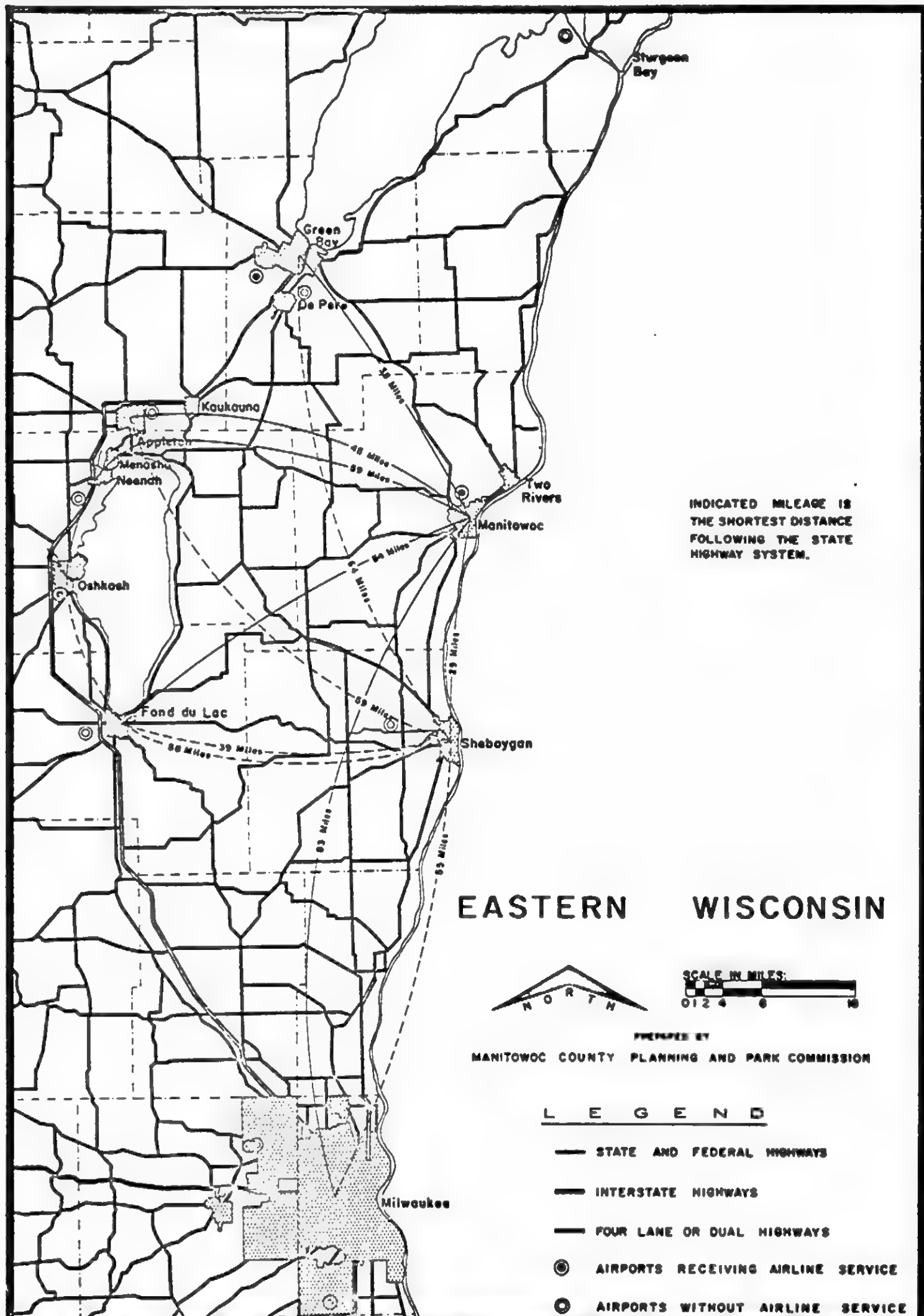
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airport midway between the two cities.

The FAA recommends that the Board certificate Sheboygan-Manitowoc as a hyphenated point to be served through one of the existing airports, as

determined in the best interest of the public by the Board. If there is reasonable assurance that such service to the airport so designated will continue for a time sufficient to justify the improvement of the existing facilities, the FAA will cooperate to the fullest with the local authorities in improving this airport to meet the needs of scheduled airline service. With regard to the other existing airport, the FAA will also cooperate with the local authorities in improving the facilities at that airport to satisfactorily meet the needs of civil aviation other than improvements required by the scheduled airlines.

It should be understood that any proposal for the improvement of airport facilities with the aid of Federal funds is contingent upon the sponsorship by an eligible local public agency, availability of Federal funds, and the sponsor's compliance with the terms of the Federal-aid Airport Program.



MANITOWOC-TWO RIVERS
Service to the Sheboygan and
Manitowoc, Wis., Area

2032

Docket No. 9767

POPULATION GROWTH

	<u>1930</u>	<u>1940</u>	<u>1950</u>	<u>1960</u>	<u>Per Cent Growth 1930-1960</u>	<u>Per Cent Growth 1950-1960</u>
Manitowoc County	58,674	61,617	67,159	75,215	28.19	12
City of Manitowoc	22,963	24,404	27,598	32,275	40.55	16.9
City of Two Rivers	10,083	10,302	10,243	12,393	22.91	21
Balance of County	25,628	26,911	29,318	30,547	19.09	4.2
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Sheboygan County	71,235	76,221	80,631	86,484	21.41	7.3
City of Sheboygan	39,251	40,638	42,365	45,747	16.55	8
Balance of County	31,984	35,583	38,266	40,737	27.37	6.5

SOURCE: U. S. Department of Commerce Bureau of the Census

MANITOWOC-TWO RIVERS

2033

Service to the Sheboygan and
Manitowoc, Wis., Area

Docket No. 9767

TOTAL EMPLOYMENT (NO. OF PERSONS EMPLOYED)

	<u>1940</u>	<u>1950</u>	<u>1960</u>	<u>Per Cent Increase 1940-1960</u>
Manitowoc County	22,406	27,812	28,618	23.20
City of Manitowoc	8,669	11,282	12,461	43.74
City of Two Rivers	3,568	4,539	4,771	33.71
Balance of County	10,169	11,991	11,386	11.10
<hr/>				
Sheboygan County	26,095	32,692	33,807	29.51
City of Sheboygan	13,606	17,840	18,423	35.40
Balance of County	12,489	14,852	15,384	23.18

SOURCE: U. S. Department of Commerce Bureau of the Census

Exhibit MTR-2.32

TOTAL MFG. EMPLOYMENT

	<u>1939</u>	<u>1947</u>	<u>1954</u>	<u>1958</u>	<u>Per Cent Growth 1939-1958</u>
Manitowoc County	5,244	9,774	11,225	10,491	100.00
City of Manitowoc	2,949	5,752	6,900	6,388	116.61
City of Two Rivers	1,927	3,226	3,602	3,388	75.82
Balance of County	368	796	723	715	94.29
<hr/>					
Sheboygan County	9,058	13,485	12,071	12,689	40.09
City of Sheboygan	5,047	8,155	6,834	7,114	40.96
Balance of County	4,011	5,330	5,237	5,575	38.99

SOURCE: U. S. Department of Commerce Bureau of the Census

MANITOWOC-TWO RIVERS
Service to the Sheboygan and
Manitowoc, Wis., Area

2035

Docket No. 9767

TOTAL MFG. ESTABLISHMENTS

	<u>1939</u>	<u>1947</u>	<u>1954</u>	<u>1958</u>	Per Cent Growth <u>1939 - 1958</u>
Manitowoc County	182	164	178	179	(1.6)
City of Manitowoc	59	72	87	87	47.5
City of Two Rivers	20	23	32	26	30.0
Balance of County	103	89	59	66	(35.9)
<hr/>					
Sheboygan County	232	228	238	237	2.16
City of Sheboygan	101	127	125	126	24.8
Balance of County	131	101	113	111	(15.3)

SOURCE: U. S. Department of Commerce Bureau of the Census

NO. OF SERVICE ESTABLISHMENTS

	<u>1948</u>	<u>1954</u>	<u>1958</u>	Per Cent Growth <u>1948 - 1958</u>
Manitowoc County	177	309	342	93.2
City of Manitowoc	96	170	162	68.7
Balance of County	81	139	180	122.2
<hr/>				
Sheboygan County	281	360	436	55.2
City of Sheboygan	164	229	227	38.4
Balance of County	117	131	209	78.6

SOURCE: U. S. Department of Commerce Bureau of the Census

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MANITOWOC-TWO RIVERS

Service to the Sheboygan and
Manitowoc, Wis., Area

Docket No. 9767

NO. OF SERVICE ESTABLISHMENTS

	<u>1948</u>	<u>1954</u>	<u>1958</u>	<u>Per Cent Growth 1948-1958</u>
Manitowoc County	177	309	345	94.9
City of Manitowoc	96	170	166	72.9
Balance of County	81	139	179	120.0
<hr/>				
Sheboygan County	281	360	438	55.9
City of Sheboygan	164	229	228	39.0
Balance of County	117	131	210	79.5

SOURCE: U. S. Department of Commerce Bureau of the Census

MANITOWOC-TWO RIVERS

Service to the Sheboygan and
Manitowoc, Wis., Area

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RETAIL - NO. OF ESTABLISHMENTS

	<u>1948</u>	<u>1954</u>	<u>1958</u>	<u>Per Cent Increase 1948-1958</u>
Manitowoc County	932	994	958	2.8
City of Manitowoc	382	471	400	4.7
Balance of County	550	523	558	1.4
<hr/>				
Sheboygan County	1,018	1,068	985	(3.2)
City of Sheboygan	578	643	541	(6.4)
Balance of County	440	425	444	0.9

SOURCE: U. S. Department of Commerce Bureau of the Census

Revised Exhibit MTR-2.37

WHOLESALE TRADE - NO. OF ESTABLISHMENTS

	<u>1948</u>	<u>1954</u>	<u>1958</u>	<u>Per Cent of Change 1948-1958</u>
Manitowoc County	78	90	106	35.9
City of Manitowoc	55	56	51	(7.3)
Balance of County	23	34	55	139.1
<hr/>				
Sheboygan County	123	126	126	2.4
City of Sheboygan	92	84	86	(6.6)
Balance of County	31	42	40	29.0

SOURCE: U. S. Department of Commerce Bureau of the Census

MANITOWOC-TWO RIVERS

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Service to the Sheboygan and
Manitowoc, Wis., Area

Docket No. 9767

1960EFFECTIVE BUYING INCOMEESTIMATES

	<u>Net Dollars*</u>	<u>Per Capita</u>	<u>Per Household</u>
Manitowoc County	\$137,173,000	\$1,812	\$6,235
City of Manitowoc	65,998,000	2,024	6,666
City of Two Rivers	24,946,000	1,980	6,929
<hr/>			
Sheboygan County	\$169,466,000	\$1,950	\$6,468
City of Sheboygan	95,715,000	2,081	6,601
<hr/>			

* Net Dollars - Includes wages, salaries, pensions, rental incomes, dividends less federal and state income taxes.

SOURCE: Sales Management Magazine, Copyright 1961, Sales Management Survey of Buying Power.

MANITOWOC-TWO RIVERS

Service to the Sheboygan and
Manitowoc, Wis., Area

Docket No. 9767

RETAIL SALES

	<u>1948</u>	<u>1954</u>	<u>1958</u>	<u>Per Cent Increase 1948-1958</u>
Manitowoc County	\$60,020,000	\$71,490,000	\$74,070,000	23.4
City of Manitowoc	31,039,000	39,946,000	39,890,000	28.5
City of Two Rivers	10,444,000	12,784,000	11,868,000	13.6
Balance of County	18,537,000	18,760,000	22,312,000	20.4
<hr/>				
Sheboygan County	\$76,070,000	\$87,466,000	\$90,885,000	19.5
City of Sheboygan	52,378,000	61,147,000	62,038,000	18.4
Balance of County	23,692,000	26,319,000	28,847,000	21.7

SOURCE: U. S. Department of Commerce Bureau of the Census

MANITOWOC-TWO RIVERS

Service to the Sheboygan and
Manitowoc, Wis., Area

Docket No. 9767

WHOLESALE TRADE - SALES VOLUME

	<u>1948</u>	<u>1954</u>	<u>1958</u>	<u>Per Cent of Change 1948-1958</u>
Manitowoc County	\$28,220,000	\$31,297,000	\$38,634,000	36.9
City of Manitowoc	24,621,000	18,957,000	22,899,000	(6.9)
City of Two Rivers	1,545,000	2,005,000	8,284,000	436.2
Balance of County	2,054,000	10,335,000	7,451,000	262.8
<hr/>				
Sheboygan County	\$42,620,000	\$80,575,000	\$64,071,000	47.9
City of Sheboygan	37,028,000	38,642,000	46,563,000	25.7
Balance of County	5,592,000	41,933,000	17,508,000	213.1

SOURCE: U. S. Department of Commerce Bureau of the Census

MANITOWOC-TWO RIVERS
Service to the Sheboygan and
Manitowoc, Wis., Area

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INDUSTRIAL PAYROLL

	<u>1947</u>	<u>1954</u>	<u>1958</u>	<u>% Change 1947-1958</u>
Manitowoc County	\$24,966,000	\$42,813,000	\$46,590,000	86.6
City of Manitowoc	14,974,000	26,756,000	29,165,000	94.8
City of Two Rivers	8,120,000	13,755,000	14,765,000	80.8
Sheboygan County	\$35,919,000	\$48,531,000	\$58,290,000	62.3
City of Sheboygan	20,328,000	25,418,000	30,647,000	50.8

SOURCE: U. S. Department of Commerce Bureau of the Census

VALUE ADDED BY MANUFACTURE DURING YEAR

	<u>1947</u>	<u>1954</u>	<u>1958</u>
Manitowoc County	\$61,499,000	\$85,594,000	\$94,401,000
City of Manitowoc	33,593,000	53,883,000	58,039,000
City of Two Rivers	22,441,000	27,932,000	30,483,000
Sheboygan County	\$71,410,000	\$80,807,000	\$104,567,000
City of Sheboygan	43,037,000	41,765,000	57,409,000

SOURCE: U. S. Department of Commerce Bureau of the Census

Service to Sheboygan
and Manitowoc Area
Docket 9767Profitability of Manitowoc-Two Rivers Service
to North Central
(1961)

Revenues (Ex. MTR-3.10)	\$91,587
Expenses (Ex. MTR-3.20)	<u>69,534</u>
Gain from service to Manitowoc-Two Rivers	<u>\$22,503</u>

Comparison of
Manitowoc-Two Rivers Results
with
Forecasts for Sheboygan
Summary

	<u>Manitowoc- Two Rivers</u>	<u>Sheboygan</u>	<u>Sheboygan Adjusted</u>
Passengers (Ex. MTR-3.41)	5624	8680	5321
Revenues (Ex. MTR-3.42)	\$91,587	\$96,568	\$62,065
Gain on Service (Ex. MTR-3.44)	\$22,053	\$17,082	(\$19,886)

MANITOWOC-TWO RIVERS

Service to the Sheboygan and Manitowoc, Wis., Area

Docket No. 9767

Rail Schedules April 24, 1955; April 24, 1960; April 29, 1962

(Central Standard Time)

Schedule Effective April 24, 1955

	<u>Train 212-162 Daily</u>	<u>Train 306-206 Daily</u>	<u>Train 214 (Ex. Sun.)</u>	<u>Train 120-216 (Ex Sun.)</u>	<u>Train 168 (Sun. Only)</u>
Lv. Green Bay	2:10 A.M.	6:20 A.M.	10:30 A.M.	3:45 P.M.	5:45 P.M.
Lv. Manitowoc	3:05 A.M.	7:20 A.M.	11:11 A.M.	4:55 P.M.	6:28 P.M.
Lv. Sheboygan	3:40 A.M.	7:55 A.M.	11:40 A.M.	5:44 P.M.	6:58 P.M.
Arr. Milwaukee	4:50 A.M.	9:10 A.M.	12:40 P.M.	7:15 P.M.	8:15 P.M.
Arr. Chicago	7:15 A.M.	10:55 P.M.	2:05 P.M.	9:10 P.M.	9:45 P.M.
	<u>Train 153 (Daily)</u>	<u>Train 215 (Daily)</u>	<u>Train 161-211 (Daily)</u>	<u>Train 217-317 (Ex Sun.)</u>	
Lv. Chicago	11:30 A.M.	6:35 P.M.	6:30 P.M.	11:59 P.M.	
Lv. Milwaukee	1:05 P.M.	7:55 P.M.	9:10 P.M.	4:25 A.M.	
Arr. Sheboygan	2:05 P.M.	8:52 P.M.	10:25 P.M.	6:09 A.M.	
Arr. Manitowoc	2:36 P.M.	9:17 P.M.	11:05 P.M.	6:59 A.M.	
Arr. Green Bay	3:20 P.M.	10:00 P.M.	11:59 P.M.	8:00 A.M.	

Schedule Effective April 24, 1960

	<u>Train 106- 206 Daily</u>	<u>Train 214 (Ex Sun.)</u>	<u>Train 120-216 (Ex Sun.)</u>	<u>Train 168 (Sun. Only)</u>
Lv. Green Bay	5:25 A.M.	9:25 A.M.	2:25 P.M.	4:40 P.M.
Lv. Manitowoc	6:15 A.M.	10:09 A.M.	3:30 P.M.	5:30 P.M.
Lv. Sheboygan	6:55 A.M.	10:40 A.M.	4:20 P.M.	6:02 P.M.
Arr. Milwaukee	8:10 A.M.	11:43 A.M.	5:50 P.M.	7:10 P.M.
Arr. Chicago	9:50 A.M.	1:20 P.M.	7:55 P.M.	8:50 P.M.
	<u>Train 153 (Daily)</u>	<u>Train 215 (Daily)</u>	<u>Train 217-117 (Ex Sun. from Milw)</u>	
Lv. Chicago	10:00 A.M.	6:15 P.M.	10:30 P.M.	
Lv. Milwaukee	11:50 A.M.	8:15 P.M.	2:15 A.M.	
Arr. Sheboygan	12:50 P.M.	9:35 P.M.	3:35 A.M.	
Arr. Manitowoc	1:19 P.M.	10:15 P.M.	4:23 A.M.	
Arr. Green Bay	2:01 P.M.	11:10 P.M.	5:20 A.M.	

Exhibit MTR - 4.10
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MANITOWOC-TWO RIVERS

Service to the Sheboygan and Manitowoc, Wis., Area

Docket No. 9767

Rail Schedules April 24, 1955; April 24, 1960, April 29, 1962

(Central Standard Time)

Schedule Effective at Present April 29, 1962

	<u>Train 214</u> <u>(Daily)</u>	<u>Train 120-216</u> <u>(Ex Sun.)</u>	<u>Train 168</u> <u>(Sun. Only)</u>
Lv. Green Bay	7:40 A.M.	2:25 P.M.	4:40 P.M.
Lv. Manitowoc	8:22 A.M.	3:35 P.M.	5:30 P.M.
Lv. Sheboygan	8:52 A.M.	4:25 P.M.	6:02 P.M.
Arr. Milwaukee	10:05 A.M.	5:50 P.M.	7:10 P.M.
Arr. Chicago	11:45 A.M.	7:55 P.M.	8:50 P.M.

	<u>Train 153 (Daily)</u>	<u>Train 215 (Daily)</u>
Lv. Chicago	10:15 A.M.	6:15 P.M.
Lv. Milwaukee	12:05 P.M.	8:15 P.M.
Arr. Sheboygan	1:16 P.M.	9:42 P.M.
Arr. Manitowoc	1:49 P.M.	10:20 P.M.
Arr. Green Bay	2:29 P.M.	11:05 P.M.

Source - Chicago & North Western Railway Published Schedules.

Exhibit MTR - 4.20
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MANITOWOC-TWO RIVERS

Service to the Sheboygan and Manitowoc, Wis., Area

Docket No. 9767

Bus Schedules April 24, 1955; April 24, 1960; April 29, 1962

Schedule Effective April 24, 1955

Lv. Green Bay		10:45 A.M.		6:10 P.M.
Lv. Two Rivers	8:00 A.M.	11:45 A.M.	4:00 P.M.	7:10 P.M.
Lv. Manitowoc	8:15 A.M.	11:59 A.M.	4:20 P.M.	7:30 P.M.
Lv. Sheboygan	9:05 A.M.	1:00 P.M.	5:10 P.M.	8:20 P.M.
Arr. Milwaukee	10:30 A.M.	2:45 P.M.	6:55 P.M.	10:10 P.M.
Arr. Chicago		6:15 P.M.	9:40 P.M.	12:45 A.M.
Lv. Chicago	5:30 A.M.		12:45 P.M.	3:00 P.M.
Lv. Milwaukee	8:15 A.M.	12:45 P.M.	4:50 P.M.	6:00 P.M.
Arr. Sheboygan	10:00 A.M.	2:34 P.M.	6:40 P.M.	7:30 P.M.
Arr. Manitowoc	10:55 A.M.	3:25 P.M.	7:40 P.M.	8:20 P.M.
Arr. Two Rivers	11:10 A.M.	3:40 P.M.	7:55 P.M.	8:30 P.M.
Arr. Green Bay	12:10 P.M.		8:55 P.M.	

Schedule Effective April 24, 1960

Lv. Green Bay		7:15 A.M.	1:00 P.M.	6:00 P.M.
Lv. Two Rivers		8:13 A.M.	1:52 P.M.	6:58 P.M.
Lv. Manitowoc		8:27 A.M.	2:05 P.M.	7:15 P.M.
Lv. Sheboygan	7:00 A.M.	9:21 A.M.	3:00 P.M.	7:56 P.M.
Arr. Milwaukee	8:45 A.M.	10:50 A.M.	4:30 P.M.	9:25 P.M.
Arr. Chicago		1:50 P.M.	7:35 P.M.	11:59 P.M.
Lv. Chicago	6:15 A.M.	11:00 A.M.	1:30 P.M.	3:00 P.M.
Lv. Milwaukee	9:15 A.M.	2:00 P.M.	4:50 P.M.	6:00 P.M.
Arr. Sheboygan	10:50 A.M.	3:29 P.M.	6:40 P.M.	7:29 P.M.
Arr. Manitowoc	11:45 A.M.	4:13 P.M.	7:28 P.M.	
Arr. Two Rivers	12:00 Noon		7:42 P.M.	
Arr. Green Bay	1:00 P.M.	5:10 P.M.	8:40 P.M.	

Exhibit MTR 24.20
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MANITOWOC-TWO RIVERS

Service to the Sheboygan and Manitowoc Wis., Area

Docket No. 9767

Bus Schedules April 24, 1955; April 24, 1960; April 29, 1962

Schedule Effective at Present April 29, 1962

		Except Sunday	
Lv. Green Bay	7:00 A.M.	12:45 P.M.	6:00 P.M.
Lv. Two Rivers	7:58 A.M.	1:35 P.M.	6:58 P.M.
Lv. Manitowoc	8:12 A.M.	1:50 P.M.	7:15 P.M.
Lv. Sheboygan	8:56 A.M.	2:40 P.M.	7:56 P.M.
Arr. Milwaukee	10:25 A.M.	4:00 P.M.	9:30 P.M.
Arr. Chicago	3:20 P.M.	7:00 P.M.	11:20 P.M.
Lv. Chicago	6:00 A.M.	11:30 A.M.	1:30 P.M.
Lv. Milwaukee	8:30 A.M.	2:00 P.M.	4:50 P.M.
Arr. Sheboygan	9:50 A.M.	3:21 P.M.	6:40 P.M.
Arr. Manitowoc	10:45 A.M.	4:05 P.M.	7:28 P.M.
Arr. Two Rivers	11:00 A.M.		7:42 P.M.
Arr. Green Bay	11:55 A.M.	5:10 P.M.	8:40 P.M.

Source - Northland Greyhound Lines Published Schedules.

MANITOWOC-TWO RIVERS

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Service to the Sheboygan and Manitowoc, Wis., Area

Docket No. 9767

Airport Travel Times: Manitowoc - Two Rivers & SheboyganTo: Manitowoc County Airport

<u>From</u>	<u>Route</u>	<u>Mileage</u>	<u>Average Time</u>
Manitowoc (8th & Franklin)	8th to Waldo to Menasha Ave.	3.1 miles	12.5 minutes
Two Rivers (Washington Public Square)	Washington to H1 42 to Waldo to Menasha	7.1 miles	14.5 minutes
Sheboygan (Prange Store)	1.H1 42 via By Pass	34.0 miles	41.0 minutes
	2.H1 141 " " "	30.4 miles	42.0 minutes
	3.H1 LS via City Route	31.0 miles	45.0 minutes

To: Sheboygan County Airport

<u>From</u>	<u>Route</u>	<u>Mileage</u>	<u>Average Time</u>
Manitowoc (8th & Franklin)	1. H1 42 to H1 32 To County "0"	30.4 miles	42.0 minutes
	2. H1 141 via Sheboygan to H1 23 to County "00" to County "0"	36.6 miles	61.0 minutes
Two Rivers (Washington Public Square)	Via Route #1 (see above)	36.3 miles	55.0 minutes
	Via Route #2 (see above)	42.5 miles	64.0 minutes
Sheboygan (Prange Store)	8th to Erie (23) to H1 "00" to H1 "0"	6.0 miles	15.0 minutes

Source: Actual driving surveys at various time of day.

MANITOWOC-TWO RIVERS

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Service to the Sheboygan and Manitowoc, Wis., Area

Docket No. 9767

Highway Time to Selected Points

From

Manitowoc:Mileage (Note 1) Driving Time (Note

To:

Appleton, Wis.	46 miles	1 hr. 6 min.
Chicago, Ill.	175 "	4 " 10 "
Chicago O'Hare Field	170 "	4 " 3 "
Green Bay, Wis.	36 "	52 "
Green Bay Austin Staubei Field	47 "	1 " 5 "
Madison, Wis.	129 "	3 " 5 "
Milwaukee, Wis.	87 "	2 " 4 "
Milwaukee Mitchell Field	95 "	2 " 16 "
Minneapolis - St. Paul, Minn.	324 "	7 " 43 "
Oshkosh, Wis.	60 "	1 " 26 "
Sheboygan, Wis.	30 "	43 "

From

Two Rivers:

To:

Appleton, Wis.	53 miles	1 hr. 16 min.
Chicago, Ill.	181 "	4 " 28 "
Chicago O'Hare Field	176 "	4 " 11 "
Green Bay, Wis.	35 "	51 "
Green Bay Austin Staubei Field	46 "	1 " 4 "
Madison, Wis.	136 "	3 " 15 "
Milwaukee, Wis.	93 "	2 " 13 "
Milwaukee Mitchell Field	101 "	2 " 24 "
Minneapolis - St. Paul, Minn.	330 "	7 " 52 "
Oshkosh, Wis.	66 "	1 " 35 "
Sheboygan, Wis.	36 "	52 "

MANITOWOC-TWO RIVERS

Service to the Sheboygan and Manitowoc, Wis., Area

Docket No. 9767

Highway Time to Selected Points

From Sheboygan:	Mileage (Note 1)	Driving Time (Note 2)
To:		
Appleton, Wis.	61 miles	1 hr. 27 min.
Chicago, Ill.	145 "	3 " 27 "
Chicago O'Hare Field	140 "	3 " 20 "
Green Bay, Wis.	66 "	1 " 35 "
Green Bay Austin Staubei Field	77 "	1 " 50 "
Madison, Wis.	113 "	2 " 42 "
Milwaukee, Wis.	57 "	1 " 22 "
Milwaukee Mitchell Field	65 "	1 " 33 "
Minneapolis - St. Paul, Minn.	336 "	8 " 0 "
Oshkosh, Wis.	59 "	1 " 25 "

Source: Note 1 (Household Goods Carriers' Bureau Mileage Guide No. 6,
MF ICC No. 71)
Note 2 (AAA recommendation - 42 miles/hr.)

MANITOWOC - TWO RIVERS
Service to the Sheboygan and
Manitowoc, Wis., Area
Docket No. 9767

EFFECT OF PLANNED HIGHWAY IMPROVEMENTS ON TRAVEL

The National System of Interstate and Defense Highways is a 41,000 mile network of limited-access highways connecting 90 per cent of the nation's cities having a population of 50,000 or more. (1) The Interstate System in Wisconsin is limited to "I 94", which connects Chicago with Milwaukee and then continues to Madison, Eau Claire, and Minneapolis - St. Paul; "I 90" which connects Chicago with Madison where it joins "I 94" as far as Tomah where it continues west to LaCrosse and Albert Lea, Minnesota.

The over half-million people living in the nine county (2) northeastern Wisconsin area are not served by this system. For a portion of the region, this is partly compensated for by U.S. Highway 41 which is a controlled access divided highway facility which connects Milwaukee with Fond du Lac, Oshkosh, Appleton, and Green Bay. This, of course, does not provide improved highway transportation service to the Lake Michigan shore counties north of Milwaukee.

The net effect of the existing highway network is that Manitowoc County is somewhat isolated in comparison with other counties of similar size and industrial importance.

(1) Wilbur Smith and Associates; Future Highways and Urban Growth, 1961.

(2) Manitowoc, Sheboygan, Fond du Lac, Winnebago, Outagamie, Brown, Calumet, Kewaunee, and Door Counties.

MANITOWOC - TWO RIVERS
Service to the Sheboygan and
Manitowoc, Wis., Area
Docket No. 9767

EFFECT OF PLANNED HIGHWAY IMPROVEMENTS ON TRAVEL

By the year 1970 two important highway improvements will be completed which will reduce highway travel time from the Manitowoc-Two Rivers area and from the Sheboygan area to Mitchell Field in Milwaukee. These include completion of the North-South Expressway in Milwaukee County and completion of the Sheboygan by-pass. (1)

To determine the effect of these improvements, a "Run Over Route Survey" was made which measured travel time for small segments of the route. Corrections could thus be made for existing detours and for the projected highway improvements. The following table summarizes the travel time data available:

DRIVING TIME

To Mitchell Field From	Using Exh. 4.43 data	Actual run with corrections for detours	1970 Projection
MANITOWOC	2 hr. 16 min.	2 hr. 17 min.	1 hr. 46 min.
SHEBOYGAN	1 hr. 33 min.	1 hr. 42 min.	1 hr. 18 min.

(1) North-South X-way estimated date of completion is 1969, according to information supplied by the Milwaukee County Expressway Commission. The Sheboygan by-pass estimated date of completion is about 1970, according to the District Office of the Wisconsin Highway Commission.

Service to the Sheboygan
and Manitowoc Area
Docket 9767

TESTIMONY OF ROBERT C. LESTER

My name is Robert C. Lester. I am an attorney and transportation consultant with offices at 1908 Sunderland Pl., N.W., Washington 6, D.C. My qualification are outlined in Appendix B, attached.

I have been retained in this case on behalf of Manitowoc County, the City of Manitowoc and the City of Two Rivers to assist in their preparation of their case for presentation to the Hearing Examiner and the Civil Aeronautics Board. The entire presentation of these communities has been prepared under my general guidance and supervision.

* * * * *

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Traffic Forecasts

The single critical factual question to be resolved in this case is the potential traffic that would be generated at the alternative airports being considered. There is no real or significant dispute with respect to North Central's expenses or unit revenues; there is no serious issue with regard to the public capital costs that will be involved in the airports. The question is how many travellers would use which airports -- and what would be the impact of travellers choices on the travellers (both financial and time) on North Central's total revenues and, ultimately, on the subsidy bill. And this question is not only one of end result, but one as to the validity of the methods used in projecting the answer to the question. Contrary to the apparent posture of the parties in the earlier phase of the case, there are now wide divergencies in forecasts of potential traffic - divergencies both in number and method.

It is our hypothesis - one demonstrated to have considerable validity by virtue of data adduced by Manitowoc-Two Rivers -- that, other things being equal, traffic to and from a local service point will vary with its distance from the nearest major hub. Thus, a local service city close to a large hub will make substantially less use of the local service and more of surface alternatives than will a local service city located farther from the hub. Indeed, local service cities located very close to major hubs will make almost no use of local airline service. A local service city located near a medium hub will generally be in a similar position -- at least if the medium hub is one of the larger ones.

Actually, the hypothesis is considerably more complex than as stated above. The more accurate (but perhaps less meaningful) statement is that utilization of a travel facility of any sort will vary with the total convenience to a point's travellers (or shippers) of that facility relative to alternatives. This more comprehensive statement we translate into two factors here: (a) distance from (b) large or medium hubs (as the hypothesis was first stated) because in the case of relatively small local service cities there will be only a minimum number of schedules, only to one or two of the major community of interest points, which are almost invariably large or medium hubs, where both local and connecting traffic tends to flow; and because distance is a convenient (but not generally very accurate) reflection of travel time which, in turn, is the only readily measurable convenience factor.

It is important to recognize that the bulk of air travellers from most local service cities - especially those relatively close to hubs - will move by air part of the way to their destinations regardless whether local service at the nearest airport is available or used. The question is not whether these travellers go by air -- but how far -- that is, which airport will they use to board their flights.

It is equally important to recognize that almost no air traveller makes his entire trip by air, since he must go by surface means to and from the airport of his choice; the question is not whether a traveller will use surface travel, but how far he will go by surface - to the nearest airport or to a more distant one. Both the Sheboygan and the Manitowoc data demonstrate the extensive use of air travel that originates or terminates at airports other than the local one (MTR-120-21; 1.30-34; 1.40-42; MTR-R-1.43; and Sheboygan exhibits referred to therein), for Manitowoc-Two Rivers, notwithstanding the existence of convenient scheduled air service and for Sheboygan, in the absence of local service.

The underlying hypothesis is not a new concept at all. The New England Council, in studies as far back as 1954, established that New England cities other than Boston and Hartford (and New York) boarded more traffic in Boston and New York than they moved out of all of their local airports. The Port of New York Authority has regularly included counties farther away from New York airports than Sheboygan is from Milwaukee (e.g., Bridgeport, in Fairfield County, Conn., which is 60 miles from LaGuardia and 74 miles from Idlewild) in determining New York traffic potential. Data in the New England Case, which is now pending, indicates that a limousine service operating from New Haven, Conn. (which is 78 miles from LaGuardia and 92 miles from Idlewild) is carrying 2200 passengers a month between New Haven and those airports, or over 26,000 annually, as compared with local traffic of 11,500 annually, despite the fact that New Haven is served with 3 round trips by two air carriers.

This concept, referred to by the New England Council as "traffic drainage" is evident from any analysis of O&D traffic for cities varying distances from hubs. For example, an analysis of the ratio of local to connecting traffic for all NCR's Wisconsin and Upper Peninsula cities shows an almost steady increase in the percentage of local traffic as distance from Chicago increases,

from as low as 17% in the case of Beloit-Janesville to a range of 24 to 34% for cities in the east central Wisconsin area, to percentages as high as 55% for Rhinelander, 47% for Ashland, 42% for Iron Mountain. NOR's exhibits (R-201-02) demonstrate the same principle in another way - by indicating that cities more convenient to hubs do not generate the potential indicated by their economic/population index as compared with more distant cities.

More important to this case, the exhibits submitted by Manitowoc-Two Rivers demonstrate the severe impact of "traffic drainage" on the apparent potential of these communities for local air service. We ourselves were astounded by the scale of the "drainage" to Chicago, Milwaukee and Green Bay when we compiled the results of our survey. (MTR-1.20-21) It was only after we had made our survey, and indeed, some time after, that we began to ask ourselves the right analytic questions and began to search for answers to explain the phenomenon.

Our survey of 30 firms established that these firms had made some 2848 air trips during 1961 that originated at Green Bay, Milwaukee and Chicago -- in addition to their utilization of MTW and in addition to the 5624 passengers in and out of MTW. This establishes the fact of significant drainage beyond the shadow of a doubt. Exhibits MTR-1.30, 1.33-34, 1.40-42 amplified on the significance of this "drainage" both from MTR and for Sheboygan as it appeared to us at the time of direct exhibits. With respect to the significance for Sheboygan, our direct exhibits endeavored to reflect MTR's experience only on the end results of the Sheboygan and BER forecasts (1.40-42). On rebuttal (P-1.43) we endeavored to adjust Sheboygan's entire forecast to reflect the MTR experience. Now, in this testimony, I endeavor to take the adjustment one step further by reflecting Sheboygan's likely "drainage" in terms of its own alternatives rather than in terms of Manitowoc's experience.

Unfortunately, not having perceived the significance of the "drainage" factor when we did our survey (which was conducted under some pressure in any

event) we had not asked the business firms to indicate their relative use of MTW and NOR when we initiated the survey since we felt that Form 41 and O&D data were satisfactory for analytic purposes. Thus, while the survey established the fact of "drainage", it did not establish its extent.

Accordingly, I asked the two largest firms - Mirror and Hamilton - both of which maintain professional "traffic" staffs, to conduct a detailed analysis of all their 1961 travel, surface and air, locally and non-locally originating. This survey established that approximately 45% (MIR-R-1.43) of the air traffic of these companies used the Green Bay, Milwaukee and Chicago airports to board or deplane - and only 55% used MTW. Since these two companies employ over 4500 persons, or better than 25% of persons employed in MIR (MIR-2.72 & 2.31), I feel that we have obtained a satisfactory sample of total business travel patterns. And I feel that we have established the proportion of "drainage".

I might add that data supplied by MIR's two travel agents more than confirms this "drainage". Bach's Travel and Insurance Agency, of Manitowoc, reported that it ticketed 822 passengers departing Manitowoc in 1961, of which 30.1% (250) used MTW, while 36.2% (299) used MKE, 24.3% (201) used Chicago and 9.1% (72) used GRB; George C. Brown, the Two Rivers travel agency, reported 435 trips, of which 30.8% (134) used MTW and Chicago (each), 24.6% (107) used MKE and 13.8% (60) used GRB. Actually, these figures suggest that drainage may be much higher with non-business travel than with business travel. We were unable to prove this, however, without a breakdown of NOR's ticket sales by airport of boarding/deplaning since there was no other means of establishing the total personal travel make-up. We did obtain a breakdown of NOR's sales by on-line and off-line, but since the off-line figures include sales for traffic using MTW, but also travelling beyond NOR on other lines, the data was not helpful. Nevertheless, we are satisfied that since the travel agency sales appear to account for a substantial minority of MTW boardings, and indicate

substantial use of airports other than MTW, we are on sound ground in using the Mirro and Hamilton percentages as evidence of the ratio of local to non-local airport utilization.

There are a number of refinements on the basic hypothesis discussed that are of some considerable importance in this case for various reasons. For example, although I speak of "distance" and "travel time" and make it appear that I am talking solely about "proximity", there is much more to the problem and the concept than distance and travel time. Perhaps the most important is "schedule timing" - the time of day that schedules are fixed (as opposed to elapsed time of flights). MTR's experience makes this abundantly clear with respect to connecting travellers returning from distant points via Chicago or Milwaukee, who make heavy use of surface travel because there is no late northbound flight to bring the traveller into Manitowoc-Two Rivers after the traveller uses an afternoon jet flight to get from his destination point back to Chicago or Milwaukee; this not only affects the inbound-return trip, but may affect the traveller's choice outbound, since he will often decide to use a car to make Milwaukee, Chicago or Green Bay outbound connection in order that he may be assured of a convenient return. (See the testimony of Dempsey and Poulos). The term "total convenience" is intended to comprehend such factors as schedule timing as well as "proximity" alone.

The broad hypothesis stated here is the very assumption that underlies the regional airport policy. The policy recognizes, for example, the impact that the interstate highways system will have on local service - by improving alternative means of reaching both local destination and the large or medium traffic hubs that are the destination of the bulk of local service travellers. It recognizes the impact of access roads in reducing time to the airport - and, therefore, total trip time, which, in turn, makes air travel more attractive than alternatives. On the other hand, the policy also recognizes that frequent

schedules are an important factor in total convenience and that if it is possible to concentrate larger numbers of travellers at a local service airport, it will be possible to offer greater scheduling convenience to the public, thereby making air travel that much more attractive than alternatives.

The regional airport policy - the establishment of regional or area airports - can be successful only if the enhancement in convenience by more frequent schedules to more destinations (and other miscellaneous improvements, such as navigation aids that can improve performance; better and faster equipment, etc.), outweighs the deterioration in convenience that results when the local service airport is located less conveniently.

In light of the foregoing, it would seem inevitable that the regional airport policy will be the more successful, the more distant are the "regions" involved from the closest large or substantial medium hub. A regional airport for an area located as close to a substantial medium hub as the Manitowoc-Two Rivers-Sheboygan area is to Milwaukee is fated to fail inasmuch as the convenience of air service is relatively marginal in this area already. It is doubtful that any enhancement of convenience would materialize at a regional airport certificated to serve this area. There would not be enough traffic to warrant the installation of full ILS system - and little improvement in performance could be anticipated. There would not be enough traffic to warrant improvement in schedules. And there would probably not be enough traffic to warrant the longer runways required to serve Convair or other improved local service aircraft. What would result if a regional airport were certificated, built and served, would be a deterioration in total travel time for the marginal users that would result in less traffic than today moves out of Manitowoc-Two Rivers.

The foregoing explanation is the theoretical basis for the approach of Manitowoc-Two Rivers to the entire problem of traffic forecasting in this case.

If I understand the exhibits of the other parties, none of them in any way endeavored to reflect total convenience in making their forecasts of traffic; none has a traffic forecast that even recognizes the existence of these factors with the exception of the partial and relatively modest recognition of the factor that might be said to be reflected in Sheboygan's exclusion of Milwaukee, Green Bay and other nearby "potential" from its traffic forecast (SHE-37); and BER's distance adjustment in BER-R-3.

Manitowoc-Two Rivers have endeavored to reflect total convenience in every respect of their presentation. First, the impact of the total convenience historically available is reflected in MTR's travel survey which was designed to find out how MTR's travellers actually move - what the results of their choices of alternatives in fact is (MTR-1.20-21 et seq.) Secondly, MTR has endeavored to show the nature of the alternatives and to reflect their attractiveness, in some extensive and relatively refined analyses of time/cost/distance by various alternatives (Exhibits in 4.0 series, especially 4.41 et seq.). Thirdly, Manitowoc-Two Rivers is submitting expert testimony from the traffic departments of the area's two largest users of air transportation to explain the convenience factors that affect their travel decisions (MTR-T-2 and 5). While time and cost constraints prevented us from developing our analysis of alternatives as extensively as we would have liked, what we have developed supports fairly firm conclusions.

Exhibits 4.50 and 4.60, together with all the other time and distance data in the 4.0 series, reflect the relative time, distance and cost factors that we were able to isolate. These exhibits, when weighed together with information as to scheduling convenience, on-time performance, and similar considerations, provide a relatively good picture of how travellers will move out of MTR and Sheboygan.

Thus 4.60 shows that it would be substantially more convenient in terms

of elapsed time alone for a Sheboygan traveller to go by surface for local travel to Milwaukee (approximately 30% or 1/2 hour faster); in the case of MTR, the balance is approximately equal, with both rail and car travel being slightly faster than air, and with rail being substantially cheaper and auto probably less expensive. This indicates why MTR's Milwaukee local traffic is so light; indeed, it suggests that the local traffic shown in the O&D might well be connecting traffic which is not so reflected because travellers do not buy through tickets.

Exhibit 4.60 also indicates that surface travel to Chicago by car or rail will be almost as convenient in elapsed time alone as air travel; when scheduling convenience, on-time performance and similar factors are considered, it is evident that local travellers between Chicago and Sheboygan will tend to prefer surface to air, though there would probably be some small amount of local traffic. In the case of MTR travel, air travel offers some substantial time saving over surface (26 to 30 minutes on a 3.5 hour trip, or approximately 12%), with no substantial cost saving by car if tolls are considered.

With respect to local travel, it is important to note that the local airport time at MTR and Sheboygan, though reflected at exactly the same time, represents proportionately less of the total trip time to MTR travellers than to SHE travellers; further, while I have used the same elapsed time for city to airport journeys for the two communities in computing the detail in MTR-4.50 and 4.60, actually the time to MIW is probably as much as five minutes quicker. In brief, MIW, being located on the very edge of the city of Manitowoc and directly accessible to Two Rivers, is ideally located to serve the cities. Sheboygan's airport is well out in the country to the west of the city.

With respect to connecting traffic from MTR and Sheboygan to MKE and ORD, the problem is considerably more complex than for local traffic. It is clear that service from MIW to both MKE and ORD is substantially more convenient

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in elapsed time for Manitowoc-Two Rivers travellers than either rail or auto -- more convenient by an hour (or 80% of the elapsed time by air) to MKE and about the same amount (or 50% of the elapsed air time) to ORD. For Sheboygan travellers, the times saved would be about 40 minutes to MKE and 50 to ORD, slightly smaller percentage savings. On the other hand, for Sheboygan travellers, connections at MKE would still be considerably more convenient in elapsed time by car to MKE than by air to ORD. And when other convenience factors are considered, it appears inevitable that Sheboygan's flow would still be heavy to and thru MKE, just as it is today.

In brief, while the convenience of air service at MTW attracts approximately 55% of MTR's travellers to use NOR's service, service at SHE would be marginally less attractive to Sheboygan travellers, to the point where 60% of the potential would not use SHE.

As pointed out earlier, neither Sheboygan nor BEE endeavored to reflect available alternatives or total convenience in their forecasts of Sheboygan travel (or in BEE's forecast of MTR potential via SHE or an area airport). Sheboygan's forecast, in addition, suffers from certain methodological weaknesses that cast substantial doubt on the total traffic potential it forecasts-- doubts that are confirmed by comparing the present total travel reflected in MTR's exhibits compared with SHE's.

The Examiner, in his earlier initial decision, and without the benefit of MTR data other than comparisons of the economies and populations of the cities of Manitowoc and Sheboygan, concluded that Sheboygan probably would generate considerably more traffic than Manitowoc. Exhibit MTR 1.40 and 1.41 suggest that actually Manitowoc generates considerably more total travel than SHE. And the MTR data in that exhibit is all actual, realized travel, while Sheboygan's figures include a forecast that, as I shall show below, is optimistic to say the least.

The key weakness in Sheboygan's forecast is that the entire predicate for it was the question put in its survey of businesses as to whether the trips reported in the survey "would have been made by air 'if scheduled air transport service to/from the Sheboygan County Airport had been available'" (SHE-Testimony HCT, p. 13). It is not clear whether the question included the description "convenient" - but whether it did or not, the experience of MTR proves that the mere availability of local air service does not establish that even air travellers will use it. It is unfortunate, but the Sheboygan survey simply does not measure potential at the Sheboygan airport. Furthermore, Sheboygan expanded its forecast by various factors that are contrary to experience; thus Sheboygan forecasts non-business travel at 50% of business travel; MTR experience (MTR-R-1.43, note 3) indicates that business travel is approximately 2/3 of MTR's total, while local service surveys generally indicate that business travel accounts for 75% of the total. In total, Sheboygan increased its survey results by 123% to estimate total travel; yet MTR's survey, which was less extensive in coverage than Sheboygan's indicates that survey travel accounted for 64% of total MTR travel (see MTR-R-1.43, notes 3, 4 and 5).

BAO Techniques

The Bureau relies upon two basic techniques to develop its traffic forecasts: (1) it uses its "passenger generating index" to forecast Sheboygan traffic; and (2) it uses Manitowoc's 1961 traffic, adjusted by a hypothetical "distance" factor, to forecast Manitowoc traffic. The "Passenger Generating Index" technique we consider completely unreliable for reasons that are outlined in extensive detail in Appendix A.

Forecast of Manitowoc Traffic

BER-R-3 purports to indicate how many passengers and passenger miles NOR will retain of present Manitowoc-Two Rivers traffic if Manitowoc is "served"

through the Sheboygan airport. The analysis takes only one factor into account, and that in a completely mechanical fashion: the relation of distance to Sheboygan to total trip distance. It assumes that traffic will be lost in relation to the ratio of those distances.

This technique does attempt, in rough fashion, to reflect one of the factors mentioned in my summary above - namely, the effect of airport distance on the marginal traveller. It ignores the most important of all factors: the alternatives available to the Manitowoc traveller. The outstanding illustration of the meaninglessness of this approach is in the case of Green Bay traffic. The exhibit shows that Manitowoc-Two Rivers had 100 local Green Bay O&D passengers; that the distance to Green Bay is 34 miles; that the 31 miles to the Sheboygan airport is 91% of the mileage to Green Bay -- and concludes that NOR will lose 91% or 91 of the 100 passengers it carried in 1961 -- but retain 9% or 9 passengers. This, despite the fact that Green Bay is only 1:35 by car, and 66 miles, while an air trip from Sheboygan would entail a 45 minute drive to the Sheboygan airport, a 20 minute check-in time, a back haul of 34 minutes and a 15 minute taxi ride into town, or a total time of 1:54 - unless the plane were late.

While this is the most extreme example of the mechanical application of an inapplicable standard, the same principle applies to every single figure in BER-R-3. Of the sixteen points listed in R-3 --

4 are points to the north for which a drive to Green Bay would furnish the quickest air service; indeed, if these points were served at all from Sheboygan, the flights would stop at Green Bay.

4 are Michigan, Ohio and Minnesota (i.e., MSP) points that could be reached directly from Sheboygan, with greater mileage, and, generally, less desirable equipment (DC-3 vs. CV). (Plus Watertown, which can be reached by air from anywhere only by NOF connection at MSP).

2 are Wisconsin points to the west to which there would probably be no service at Sheboygan, which are relatively close by car (and which would be equally accessible through GRB.)

1 is Omaha, which has no direct NOR service from Wisconsin and would be reached through Milwaukee or Chicago like off-line points.

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While BER's distance adjustment has some relevance, our approach to relative convenience is obviously more meaningful than a distance factor which should, in any event, be applied only to the relative distance to Milwaukee and Chicago -- not to the total trip.

On the basis of our analysis of the characteristics of air travel and air travellers in the Manitowoc-Two Rivers region, and the similarity of the Sheboygan region to the Manitowoc-Two Rivers region, and the available alternatives, would forecast the following passenger traffic volumes for a normal future year under the various airport situations that seem to be possible outcomes of this case; the forecast assumes two round trips daily at each of the airports, operating approximately the same schedule pattern as is available today at MTW:

	MTR Traffic a	Sheboygan Traffic b	Total c
1. MTW & SHE Certificates	5624	4921	10,545
2. SHE only certificated	1800	4921	6,721
3. Area Airport	1406	492	1,898

To explain these figures briefly:

1a - Manitowoc forecast at 1961 experience.

2a - Assumes that no local NOR traffic now using MTW will do so: Chicago and Milwaukee local traffic will be able to move more quickly by car or train than via SHE, while all other NOR local traffic will move via GRB which will be closer, more direct, less costly and more convenient to all NOR destinations other than Chicago and Milwaukee shown in the O&D (BER-10). Local traffic amounts to 36% of the total, or 2025 of MTR's 1961 experience. Connecting travel is estimated to be "drained" to MKE and ORD, as opposed to SHE, at the rate of 50% of the total connecting traffic moving via NOR at MTW, or 1800 out of 3599; this appears reasonable in view of the fact that some 45% of Manitowoc's present travellers are "drained" to other airports than MTW today.

1b and 2b - Sheboygan forecast on basis of SHE-37 potential, reduced by 60% for "drainage" to Milwaukee and Chicago on the basis of balance of "total convenience"; 60% drainage compares with 45% drainage at MTR, which is some 32 miles, or 33% farther from the Milwaukee airport than is

Manitowoc-Two Rivers Ranking

We realize that a local service community's performance in terms of traditional indices is not conclusive of its right to retain service at its own airport. Nevertheless, performance relative to other cities in the nation receiving local air service is relevant to a determination whether it should continue to receive air service from a subsidized carrier.

Manitowoc-Two Rivers have, of course, far exceeded "use-it-or-lose-it" requirements since 1955 when it first received a two daily round trip pattern (MTR-1.10). Its growth has been constant since 1953, except for the recession years of 1958 and 1960-61 when airline traffic generally suffered; 1962 figures show the earlier growth rate resuming with the gradual upturn in business. Its growth in air express and, since NOR began air freight service in 1959, in air freight has been a phenomenal 33% annual increase (MTR 1.34) - far in excess of NOR's experience at similar cities - with similar service patterns; its volume of air freight and express boarded in 1961 being the equivalent in weight of 1238 passengers (@ 190 lbs. per passenger), or 44% of the passenger tons generated out of Manitowoc-Two Rivers.

Relative to other cities on NOR's system, MTR ranks 6th among 16 cities that received two round trips a day (MTR-R-1.19). On a national scale, it ranks 30th among the 59 local service cities over 10,000 in population that received two round trips a day, 55th among 125 cities of all sizes served by all kinds of carriers that received two round trips a day, and 370th among the 555 cities in the U.S. receiving commercial airline service. This kind of performance justifies the Board's original judgment in certificating Manitowoc on NOR and justifies the retention of air service regardless of the regional airport policy if local airline service is to be authorized across the United States on any sort of equitable basis.

These statistics reflect the fact that Manitowoc-Two Rivers are heavy traffic generating cities, heavy users of air transportation, because of the

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Before the
CIVIL AERONAUTICS BOARD
WASHINGTON, D.C.

MANITOWOC-TWO RIVERS, WISCONSIN
Service to Sheboygan and Manitowoc Area
Docket No. 9767

My name is Frank J. Dempsey, Jr. I live in Manitowoc, Wisconsin, and my business address is 1512 Washington Street, Manitowoc, Wisconsin. I am employed as Assistant Traffic Manager for the MIRRO ALUMINUM COMPANY, General Offices, Manitowoc, Wisconsin, the World's Largest Manufacturer of Aluminum Cooking Utensils, having plants in both Manitowoc and Two Rivers, Wisconsin.

My personal qualifications are fully outlined in appendix "A" attached.

I am sponsoring exhibits MTR 1.10, 1.11, 1.12, 1.20, 1.21, 4.10, 4.11, 4.12, 4.20, 4.22 to 4.43 inclusive and these exhibits have been prepared by me or under my direction. They are true and correct to the best of my information and belief.

Exhibit MTR 1.10 - 1 Page

This exhibit was prepared from information furnished monthly to the Manitowoc Chamber of Commerce by the North Central Airlines Manitowoc Station indicating the number of completed flights, passengers on, passengers off, mail on in pounds, mail off in pounds, express on in pounds, express off in pounds, freight on in pounds and freight off in pounds.

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The passenger figures show a steady increase with the exception of the years 1960 and 1961. These years reflect the general business recession but 1962 figures indicate a continuation of the earlier growth.

These figures we feel indicate that Manitowoc-Two Rivers has supported North Central very well even though we only receive two southbound and two northbound departures each day. On February 13 we addressed Mr. Frank N. Buttomer, Vice President Traffic and Sales, of North Central Airlines, pointing out that two flights each direction do not allow enough flexibility for North Central to capture all of Manitowoc's air business. Many passengers, as well as many air freight shipments are boarded at other cities such as Milwaukee because of lack of frequency or lack of available space.

We pointed out that Flights 458 and 579 have been historically heavy flights and requested that they give consideration to offering an additional flight each direction, suggesting Flight 570 make a Manitowoc stop on their southbound leg from Green Bay arriving in Manitowoc approximately 11:20 A.M.

We requested that Flight 579 continue to stop at Manitowoc at approximately 5:30 and that North Central give consideration to stopping Flight 297 at Manitowoc at approximately 7:10 P.M.

Mr. David E. Moran acknowledged our letter on February 16 indicating that Flights 570 and 297 would not provide a solution to our problem as they are presently operating nonstop from Milwaukee to Green Bay and their load factors were presently quite high.

He indicated that our suggestion would be placed with the Manager of Tariffs and Schedules to see if he could offer a solution so that it would assist travelers in the Manitowoc-Two Rivers area to allow North Central a better portion of their business. To date we have received no further word from them.

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With the change in North Western Railroad's schedule, removing Train No. 306 formerly departing Manitowoc at 7:20 A.M., arriving Chicago at 10:50, and adjusting the schedule of Train 214 from 11:05 to 9:22, arriving Chicago at 12:45, Manitowoc businessmen cannot schedule luncheon engagements with Chicago customers and suppliers. For this reason, they have looked to North Central's Flight 292, which presently leaves Manitowoc at 8:57, arriving Chicago at 10:20 A.M., as their solution and would be more inclined to use this flight if the last departure from Chicago were later than the present Flight 579 departing at 4:30 P.M.

This exhibit shows an extremely good growth in air mail, air express and air freight revenues.

The following are the 1962 first half and comparable 1961 statistics which will indicate that this growth is continuing even though we have only two flights a day serving us:

a day serving us.

	<u>1962</u>				<u>TERMINATING</u>				
	<u>Pass.</u>	<u>Mail</u>	<u>Express</u>	<u>Freight</u>	<u>Pass.</u>	<u>Mail</u>	<u>Express</u>	<u>Freight</u>	<u>Flts.</u>
Jan.	270	1,292	10,315	14,630	240	799	4,043	6,595	116
Feb.	245	1,360	9,054	10,657	181	779	2,019	19,490	92
Mar.	236	1,408	10,522	8,317	227	969	3,156	9,750	113
Apr.	235	1,373	11,691	9,616	241	764	2,005	6,739	104
May	227	1,578	12,905	10,051	205	952	3,194	4,366	115
June	362	1,812	11,819	7,450	316	963	3,662	4,931	119*
							*4 Extra Sections 2 RTS		
	<u>1961</u>								
Jan.	221	1,767	5,273	9,804	234	504	2,575	5,922	120
Feb.	173	1,521	7,226	5,211	175	523	1,412	1,425	93
Mar.	199	1,847	6,678	5,641	250	633	1,661	2,420	102
Apr.	278	1,816	9,376	8,278	305	1038	2,122	3,442	114
May	270	2,095	8,393	7,570	266	994	1,451	1,987	120
June	275	1,744	8,776	10,620	300	1,161	1,799	3,537	115

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Exhibit MTR - 1.11 - 1 Page

This exhibit graphically illustrates the growth of passengers enplaning and deplaning at Manitowoc and also the relatively poor record of completion of scheduled flights.

The graph shows, in 1960 and 1961 during the business recession, a slight decrease in the number of passengers but as indicated above, this growth pattern could be vastly improved with the addition of a third round trip stopping at the Manitowoc County Airport.

Exhibit MTR - 1.12 - 1 Page

This graph shows the fantastic growth of air freight on and off at the Manitowoc County Airport and shows a very steady growth for air express on and off and air mail on and off.

In the case of air freight and air express which by their nature are expedited shipments, it is the practice of local traffic departments to check with North Central to see what space and weight they would be able to board and oftentimes because of heavy inbound movements on the planes, this freight has to be tendered to a motor carrier to Milwaukee or Chicago or, in the case of air express, moved out via the railway express to the Milwaukee Terminal. A third round trip would stimulate the growth in both of these areas.

Exhibit MTR - 1.20 (Revised) - 7 Pages

In this exhibit we have compiled the results of 35 replies from industries showing the use of air service other than via North Central at Manitowoc during the year 1961. On our instruction page to the industries, we requested that they show only the "other than Manitowoc" information as the Manitowoc-Two Rivers airport information was available from North Central statistics. We wanted to point out that although these Manitowoc-Two Rivers

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figures were extremely good there was more potential in the Manitowoc-Two Rivers area. You will note that during the year 1961, 1,450 passengers boarded airlines at Chicago, 483 at Green Bay and 748 at Milwaukee.

Private aircraft accounted for 826 of which the majority were to and from Chicago, Illinois and Milwaukee, Wisconsin.

Railroads boarded 1,016 passengers either at Manitowoc, Milwaukee or Chicago and no information was available as to the number of passengers using the bus services but indications were that it was not patronized by business travelers because of the relatively slow speed.

This survey indicates that travelers living in Manitowoc, Wisconsin, are very much air minded with 9,131 out of 10,047 trips surveyed using air services, or better than 90%, either at Manitowoc, Milwaukee, Green Bay or Chicago.

The questionnaire from page 3 to 7 indicates the numerous destinations to which Manitowoc passengers travel and the community of interest with them. Our survey instructions requested that the industries surveyed include cities which we did not list in Exhibit MTR - 1.21 where they had three passengers or more.

This exhibit points out the very basic need of a third round trip from Manitowoc which would capture a greater percentage of the business for North Central Airlines making it still more profitable to service these two progressive communities of Manitowoc and Two Rivers, Wisconsin.

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Exhibit MTR - 1.21 - 3 Pages

This exhibit is the travel survey instruction sheet furnished to the industries requesting that they complete the information which was compiled in Exhibit MTR - 1.20.

You'll note we explain the need for this information and we explained thoroughly how we wanted them to compile the information.

In discussing this personally with the people supplying me with the information after completion of the survey, I find that it was well understood and developed as we had requested so that we can indicate a very high degree of accuracy in our basic figures.

Detailed Breakdown of Exhibits of
MIRRO ALUMINUM COMPANY and Hamilton Manufacturing,
Two of the Larger Participants in this Survey

Following our original survey of 35 Manitowoc-Two Rivers companies and their use of air and other public transportation, we had more detailed analyses prepared of the travel of Mirro Aluminum and Hamilton MFG. Co. employees to cross-check the survey results and to obtain an estimate of the relationship between total business travel and the utilization of North Central in and out of Manitowoc-Two Rivers. These analyses were the predicate for the analysis in Exhibit MTR-R-1.43, which was based on the fact that 44.7% and 46.3% of Hamilton's and Mirro's air travel, respectively, boarded or deplaned at airports other than Manitowoc-Two Rivers, the balance using North Central in and out of Manitowoc-Two Rivers. These further detailed analyses done by Mirro and Hamilton list the actual names of every rail and air passenger of both companies, together with their origins and destinations, by date; the list of air freight and express shipments; total expenditures for air services; and other similar data, including percentages

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of total freight moving by air. This supporting data is available for examination and copies are available for the parties.

The MIRRO ALUMINUM COMPANY employees hold 51 air travel cards, 9 of which are the International Air Cards and 42 are North American Cards and their 1961 payment to United Airlines for tickets purchased for the use of these cards was \$18,221.11.

Total air freight and air express outbound was 61,455 pounds or 1.52% of MIRRO'S annual business.

Hamilton Manufacturing employees hold 65 air travel cards and paid to Trans World Airlines in 1961 \$65,943.88.

Their air freight outbound was 17,933 pounds which consisted of hardware, parts and small items as furniture and appliances, even though the basic lines of furniture and appliances do not generally move via air due to their size.

Exhibit MTR - 4.10 - 2 Pages

In this exhibit we included the Chicago and North Western Rail schedules effective in April of 1955, 1960 and 1962.

In 1955 Manitowoc was served via four southbound and four northbound trains which operated on a relatively fast schedule, Train No. 214 leaving Manitowoc at 11:11, arrived in Chicago at 2:05. On the northbound movement, Trains 153 and 215 provided fast service from Chicago making the run in approximately three hours.

In 1960 through a petition to the Interstate Commerce Commission the Chicago & North Western Railroad was successful in reducing the service to three trains each way by deleting Trains 212-162 southbound and Train 161-211 northbound. This reduced the service by 25% and also you will note that Train 215 which formerly

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operated to Manitowoc in 2 hours and 42 minutes now is lengthened to 4 hours.

Through further action through the ICC the North Western in 1962 had reduced its train service to two trains a day each direction and again lengthened the operating times and thus from 1955 through 1962 saw a substantial decline in the number of rail trains as well as in the quality of service provided by the remaining trains.

This provides a better potential for North Central Airlines Manitowoc Operation.

Exhibit MTR - 4.11 - 1 Page

In this exhibit, which is the business travel by rail in 1961, you'll note that the 1,016 passengers were primarily short haul passengers, 262 of which were Chicago bound.

A good percentage of these passengers could be secured for North Central Airlines if a third round trip were added with a later departure than the present Flight 579 which departs O'Hare Airport at 4:30 P.M.

For example, a passenger returning from New York would have to board the 1:00 jet in order to make the return trip home on Flight 579 and this would cut the business day rather short.

If a later departure was provided, it would allow the passenger to return from New York, leaving there approximately 4:00 P.M. This would provide much better working day with the passenger still returning to his home base without the cost of a night lodging either in New York or in transit. This same example would apply from any of the eastern cities as well as the midwestern destinations of Kansas City and St. Louis and Minneapolis.

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Exhibit MTR - 4.12 - 1 Page

This exhibit outlines the various rail fares, coach, first class, one way and round trip including parlor car seats for first class passengers from and to Chicago, Milwaukee and Green Bay, from Green Bay, Manitowoc, and Sheboygan.

The source of these fares is the C&NW Passenger Tariff 2112 and the fares include the 10% federal excise tax.

Exhibit MTR - 4.20 - 2 Pages

The bus schedules in effect on April 24 of 1955, April 24 of 1960 and April 29, 1962 were compared.

It can be noted that during April, 1955 Manitowoc-Two Rivers enjoyed four southbound and four northbound buses.

In 1960 after appropriate action through the Wisconsin Public Service Commission the buses were reduced from four to three southbound and northbound but Sheboygan enjoyed a fourth bus to Milwaukee.

In 1962 the schedule was further limited by reducing one southbound bus on Sundays, leaving three buses daily except Sunday and two buses on Sunday southbound with three northbound daily buses to Manitowoc.

Exhibit MTR - 4.22 - 1 Page

This exhibit indicates the one way and round trip bus fares from and to Chicago, Milwaukee and Green Bay, to Green Bay, Manitowoc and Sheboygan.

The source of this exhibit is the Greyhound Passenger Tariff B1313 & 152-3.

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Exhibit MTR - 4.30 - 2 Pages

In this exhibit we point out the air schedules in effect April, 1955, March, 1960 and April, 1962 from Manitowoc County Airport.

You'll note that Manitowoc has been served by two flights a day, each direction, allowing an early morning departure from Manitowoc to Milwaukee and Chicago and an early morning arrival from Chicago and Milwaukee and a late afternoon departure from Manitowoc to Milwaukee and Chicago with a later afternoon arrival from Chicago and Milwaukee to Manitowoc.

You'll note that between this time there is no service provided and I have repeatedly pointed out that if a third round trip were placed between the two southbound flights and a return round trip after Flight 579 there would be more opportunity for capturing of the additional business now moving air via other ports or moving via rail from Manitowoc, Wisconsin.

Exhibit MTR - 4.41 - 2 Pages

This exhibit was developed from the experience of drivers actually traveling in a passenger car the routes indicated and timing the trips and recording the mileage at various times of the day.

The rush hour was considered from 8:00 to 9:30 in the morning and 11:00 to 1:00 at noon and from 4:00 to 6:00 in the evening.

The local travel times from Manitowoc were moved over those likely routes using the benefit of the one-way streets on 8th Street and using the center of the business district, 8th and Franklin, as the point of origin.

Since the Chicago & North Western Railroad Depot is located on the extreme west of Clark Street and is accessible either from Meadow Lane or Custer Street, surveys were taken via both routes to show as much accuracy as possible.

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Local travel time at Sheboygan was taken over what we thought were the most accessible routes figuring the Prange Store at 8th and Wisconsin as a centrally located point in the business district from which to start our survey.

Since the Greyhound Bus Station and the Chicago and North Western Depot in Sheboygan are located adjacent to the downtown area, only one route was taken.

Local travel time from Two Rivers to the Manitowoc County Airport and the Chicago & North Western Depot which are both located in Manitowoc were taken via the most accessible routes. Two Rivers passengers, since they are coming from the north, would generally use the Meadow Lane entrance to the Chicago & North Western Manitowoc Depot so no survey was run from the Custer Street or the southern entry to the depot.

The Greyhound Lines service Two Rivers direct and, therefore, this is the only local survey which was accomplished. The center of the Two Rivers business district is considered Washington Public Square and, therefore, the surveys for the airport, the bus station and the North Western Depot were started at this point.

Exhibit MTR - 4.42 - 1 Page

Again, this exhibit was compiled from information recorded by the use of passenger car and actually driving at various times of the day from the points indicated.

To the Manitowoc County Airport we drove from 8th and Franklin Streets in Manitowoc via the most accessible route using the advantage of the one-way traffic on 8th Street to accomplish our results.

From Two Rivers again we used the Washington Public Square moving via Highway 42 to Waldo Boulevard to Menasha Avenue which is the most accessible route to the Manitowoc County Airport.

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From Sheboygan there are three excellent routes so we ran our surveys via all three routes. The routes are as follows:

1. Highway 42 via the by pass at Manitowoc to the airport on Menasha Avenue.
2. Via Highway 141 using the by pass to Menasha Avenue.
3. Highway Lake Shore which would move via a city route of 10th Street to Washington Street to 8th Street to Waldo Boulevard to Menasha Avenue.

By using the three routes from Sheboygan we felt that we had a complete survey considering all possibilities.

To the Sheboygan County Airport again we used the centrally located 8th and Franklin at Manitowoc and proceeded there via Highway 42 to Highway 32 to County Trunk O and this consumed 30.4 miles and 42 minutes on the average.

The second route to the Sheboygan County Airport was using Highway 141 via Sheboygan to Highway 23 to County Trunk OO to County Trunk O which is 36.6 miles taking 61 minutes.

While running the survey from Manitowoc to Sheboygan County Airport, and in view of our knowledge of Manitowoc-Two Rivers travel needs, we found that if Sheboygan were to be the point of service the passenger would stay in his automobile and drive to Milwaukee where he could enjoy a much better frequency of flights than the two each way that would be provided from Sheboygan. He would also have his car available for the return trip and could return to Milwaukee as late as 10:00 in the evening and still be home before midnight, saving the cost of the night lodging.

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If the passenger would not have the facilities of the Manitowoc County Airport, he would have to relinquish the services of his car to move via the Sheboygan County Airport and since he would have to deprive his family of the automobile he may as well drive it to Milwaukee where he could have this added convenience and savings in over-all cost.

Furthermore, at Sheboygan County Airport there are no facilities for secure storing of vehicle whereas at Milwaukee Mitchell Field the Bonanza Motel opposite the airport offers both covered and open auto storage at very reasonable rates.

Since Two Rivers passengers are a very important factor, we also ran surveys from the Washington Public Square in Two Rivers using the same two routes from Manitowoc as in order to reach Sheboygan from Two Rivers by the most direct route the passenger must go through Manitowoc, Wisconsin, as it is directly intermediate.

In the case of Two Rivers passengers, they, too, would not be inclined to use the Sheboygan County Airport for service but would rather follow the same procedures as outlined above for Manitowoc passengers by driving through to Milwaukee. Presently the Two Rivers passengers would use the Manitowoc Airport because of its relatively short distance from Two Rivers, they can be taken either via taxi or via private automobile with the driver returning to Two Rivers.

In the case of using the Sheboygan County Airport, the back-haul of having someone drive the passenger to the airport and then return to either Two Rivers or Manitowoc with the automobile and then return for the passenger upon his arrival would be much too costly and time-consuming.

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The survey from the Prange Store at 8th and Wisconsin was accomplished via the most expedited route to the Sheboygan County Airport.

Exhibit MTR - 4.43 - 2 Pages

This exhibit consists of highway time to selected points from Manitowoc, Wisconsin, from Two Rivers, Wisconsin, and from Sheboygan, Wisconsin.

In preparing this exhibit the mileage was figured from the Household Goods Carriers' Bureau Mileage Guide No. 6, MF ICC No. 71 which is the standard reference by the moving industry to properly rate freight bills using the short line mileage.

To determine the driving time we used the American Automobile Association's recommendation of 42 miles per hour. My personal experience in driving from Manitowoc and Two Rivers as well as Sheboygan to the points listed I would feel that the 42 mile an hour average speed is realistic.

You'll note that from Manitowoc to Milwaukee Mitchell Field is 2 hours and 16 minutes. In referring back to Exhibit 4.42 we find that from Manitowoc to the Sheboygan County Airport is 42 minutes and, therefore, with the additional 1 hour and 24 minutes driving the passenger would have his vehicle available in Milwaukee and with only two flights a day at Sheboygan if Sheboygan were certified as the service port for all three cities, it is readily apparent that the passenger would drive this additional time for the additional convenience.

This same application would apply from Two Rivers.

In reviewing the driving time from Sheboygan to Mitchell Field of 1 hour and 33 minutes, it hardly seems logical that a passenger would forego the greater frequency of flights to various destinations from Milwaukee to save actually only 1 hour and 13 minutes of driving

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time. It would take 20 minutes to drive to the airport and then they, too, would be confronted with the early departure from Chicago whereas the Manitowoc passenger has more incentive to use their local airport because their driving time to Milwaukee would be 2 hours and 16 minutes.

The Manitowoc passengers have proved that in at least 55% of the cases they do use the Manitowoc Airport in preference to the other airports at Milwaukee, Chicago and Green Bay. The Sheboygan passengers now using the Milwaukee Airport, and with the relatively small amount of driving time involved, will no doubt continue to use the Milwaukee Airport in large numbers for the greater convenience even though Sheboygan may be certified as the point of service for Manitowoc, Two Rivers and Sheboygan area.

Use of Other Airports Other Than MTW

The reason that MIRRO passengers and others use Milwaukee and O'Hare is primarily because of inability to complete reservations from Manitowoc because of lack of space on either the going or return portion or because the return via North Central 579 departing from O'Hare at 4:30 P.M. is too early to insure the passengers return home the same day.

Oftentimes we are able to clear a passenger on his origin portion either on Flight 292 departing Manitowoc at 8:57 A.M. or on Flight 458 departing Manitowoc at 5:39 P.M. only to find that he is wait list on Flight 579 on his return portion. Most business passengers have enough to worry about completing the business that they are setting out to accomplish without being uncertain of their return.

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By using Milwaukee they have real good access to the east and west coast and by using Chicago they have extremely good access to both coasts as well as most major metropolitan areas in the southeast and southwest.

If Manitowoc were to lose North Central's service far more of the passengers would use either the Milwaukee or Chicago gateways than would use either Sheboygan, if Sheboygan were to be certified, or Green Bay.

Sheboygan would offer the two flights a day each way and, of course, if the passenger misses his connection he has to find an alternate means to Milwaukee and Chicago whereas if he were to miss his connection at either Milwaukee or Chicago it is only a matter of an hour or so and he is able to reroute himself to his destination via an alternate flight.

Manitowoc and Two Rivers passengers would not find Green Bay convenient because actually it is a northbound movement to catch the southbound flight and the time spent in traveling to the Green Bay Austin Straubel Field could be much better spent traveling south to Milwaukee or Chicago.

Without the convenience of boarding a local service airline in your home community, you lose the incentive of using this type of service from another location. You look more to direct trunk line connections at Milwaukee or Chicago.

Inconvenience and Inadequacy of SHE for Service to MTR

In this testimony much reference has been made thus far as to why Manitowoc and Two Rivers area passengers would not use Sheboygan County Air Service if Sheboygan were to be certified and Manitowoc decertified but I feel that we should summarize more completely our points on this topic.

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The record in MTR 1.20 indicates that Manitowoc-Two Rivers passengers have supported North Central's Manitowoc Operation as much as possible with North Central's two flights daily each direction.

In order to use Manitowoc service, trips are planned so that return portion brought passengers into O'Hare to connect with North Central Flight 579 departing O'Hare at 4:30 P.M.

If the service were discontinued at Manitowoc and moved to Sheboygan, the picture will change considerably. The passenger will have no incentive to return to O'Hare in time to connect with North Central Flight 579.

Since no public transportation is presently available from Manitowoc to Sheboygan County Airport to connect with North Central flights, it will require the passenger to drive his auto to the airport. Presently they can either take a taxi to the Manitowoc County Airport or have some member of the family drive them to the Manitowoc County Airport and be picked up upon arrival via either method. This allows the use of the passenger car by other members of his family during his absence.

If the passenger must retain his car for the trip to Sheboygan County Airport, he will drive to Milwaukee Mitchell Field for the following reasons:

1. Milwaukee offers many direct connections to many destinations as indicated in the Official Airline Guide - Quick Reference Edition. Via Sheboygan County Airport passenger is limited to two flights each way without convenience of leaving and returning to his home base.

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2. From a time standpoint there is only a difference of 25 minutes driving versus SHE service. The driving time from Manitowoc to Milwaukee Mitchell Field is 2 hours and 36 minutes at a cost of \$8.08 (95 miles at \$.085 per mile). Using service via SHE it would be 43 minutes driving time at a cost of \$2.56 to Sheboygan, plus 20 minutes check-in time, plus 26 minutes flight time to Milwaukee at an approximate cost of \$5.79 and the minimum 40-minute connection time which brings a total of 2 hours and 9 minutes at a cost of \$8.35.
3. Passenger using Milwaukee Mitchell Field is not limited on his return as he would be using SHE. The passenger using MTW today is willing to restrict his travel for the convenience of coming directly to his home airport.
4. Passenger will use MKE instead of SHE because he need not concern himself about two connections, one at SHE and another at MKE. If he uses SHE and North Central operates late or not at all, he must then drive to MKE missing all previous reconfirmed connections. Using MTW today, he has better opportunity to check these possibilities and if an alternative method required, for example, the Chicago & North Western train, he has no worry about his auto.
5. Using the illustration in item 4 above, on the return portion, passenger will have his auto at the SHE Airport and have to take an alternate common carrier to Sheboygan and then drive home whereas under present service all he has to worry about is returning to

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Manitowoc and his auto is not stored en route.

Air Freight and Air Express

North Central Airlines Manitowoc Operation handled
in 1961:

	<u>On</u>	<u>Off</u>
Air Freight	134,303	45,410
Air Express	100,964	32,422

This volume would not move via SHE if SHE were
to be certified as the service port and MTW de-
certified for the following reasons:

Air Freight

1. Present Motor Carrier (Motor Transport)

schedule of pick-up and unit departures from
Manitowoc Terminal to the Sheboygan Terminal
would not allow connection with NOR 458 esti-
mated SHE departure 5:54 P.M. First avail-
able would be NOR 292 - 9:12 A.M. following
day, a delay of 15 hours 18 minutes.

- a. A 2 P.M. deadline for pick-up would have
to be established and most air freight by
nature is rush and ready at last minute,
generally 4 P.M.
- b. Sheboygan does the billing for Manitowoc
Motor Transports, therefore, an addi-
tional delay would result in Sheboygan.
- c. Present tonnage would not warrant Motor
Transport offering this service when they
presently have service to Milwaukee Mitchell
Field at a much better per shipment revenue.

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2. Today, to be sure of shipment moving same day, NOR is called so they can estimate available room on flight. Often last minute weather changes, etc., require rerouting freight via motor carrier to MKE or ORD. Using SHE, this type of operation would be costly and not logical. MIRRo would not follow this procedure just to permit NOR to handle its freight, nor would any other shipper.

3. Cost would increase as service delayed:

Present via NOR to MKE or ORD to Connecting Line

\$.08 lb.	\$4.50/cwt.	Minimum Chgs.	\$5.00	1/
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If via SHE via NOR to MKE or ORD to Connecting Line

Manitowoc - SHE	*\$1.44 cwt.	Minimum Chg.	\$4.00	2/
	Plus \$1.00 Surcharge			

SHE - MKE or ORD	.08/lb. \$4.50 cwt.	Min. Chg.	\$5.00	3/
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Additional via SHE	\$1.44 cwt.	Minimum Chg.	\$4.00
	Plus \$1.00 Surcharge		

(Also delay in item 2 above)

Source: 1/ Air Freight Rate Tariff #2 CAB #8

2/ Middlewest Freight Bureau IB MF-ICC 368

3/ Air Freight Rate Tariff #2 CAB #8

Lowest published rate is now .08/lb. 4.50 cwt.

* 1st class rate interstate

4. Via MKE cost would be less than via SHE and service better than via SHE:

a. If via MKE (No NOR haul) to Connecting Line

Manitowoc - MKE	\$1.82 cwt.	Minimum Chg.	\$4.00	2/
	Plus \$1.00 Surcharge			

Via SHE	\$5.94 cwt.	Minimum Chg.	\$9.00
	Plus \$1.00 Surcharge		

Saving via MKE vs SHE	\$4.12 cwt.	Min. Chg.	\$5.00
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b. Transit time via MTW

Pick-up 4:00 P.M. *Delivery MKE 10:00 P.M. 6:00 hrs.
*(Regular Schedule via
Motor Transport Company)

Transit time via SHE

Pick-up 4:00 P.M. **Delivery SHE 7:00 A.M. 15:00 hrs.
 ** (Estimated as NOR
 Terminals close after last flight
 arrives next station, open about
 7:00 A.M.)

SHE - MKE :26

MKE Ground Time to Connection 1:00

Total 16:26 hrs.

Saving in Transit Time via MKE vs SHE

5. Items 1 - 4 reflect outbound moves, inbound will be comparable.

Air Express

1. REA Express would be required to pick up and forward Air Express. Presently, most Air Express delivered to Manitowoc County Airport and signed for by NOR Agent in attendance.
2. REA Express move shipment from Manitowoc to Milwaukee via their truck as their service via C&NW discontinued June 1, 1961. Truck starts at Green Bay, picks up at Denmark, Manitowoc, Sheboygan, Oostburg and Port Washington terminaling at REA Express Milwaukee. Departure Manitowoc is 4:40 P.M., therefore, connection via SHE impossible. Air Express should move to MKE. NOR losing this revenue.

Comments on SHE Exhibits

SHE-2

The noncommercial passenger estimate of 50% of the commercial travelers is too high as we feel that Sheboygan area is similar to the Manitowoc area and our experience has indicated that at least 75% of the traveling public are commercial travelers. This ex-

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equal 1/3 of Sheboygan County's passenger production and we feel that that is much too high because as stated before in this testimony, passengers from this area would not settle for local airline service from Sheboygan when they could just as well continue on the short distance into Milwaukee for trunk line service.

SHE-3

In this exhibit Sheboygan indicates a substantial industrial growth during the years of 1957 through 1960 but we question whether this apparent growth is anything more than recovery from the Kohler Strike of 1953 which depressed their business conditions considerably.

SHE-5

Sheboygan indicates "Number of trips in 1959 by 61 firms that would have been made by air from Sheboygan County Airport if scheduled air transport had been available." How many were actually made via Chicago, Milwaukee, or Minneapolis via air? The use of "would have been made" leaves room for doubt that ^{these} ~~that~~ were air travelers.

SHE-6

Sheboygan indicates that their people would fly from SHE to Rockford or Madison. Driving time via highway to these points is as follows:

SHE - Rockford	146 miles	3 hrs. 29 minutes
via highways 141-15-51		
SHE - Madison	104 miles	2 hrs. 29 minutes
via highways 23-151		

SHE-7

Use of September is a loaded month and does not represent a good basis. Use of September provides substantial sampling error. In 1961, for example, September was the highest month for North Central Manitowoc Operation. In our region, September is historically the best business month of the year.

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Using 1961: Total MTW Air Freight 100,964
September, 1961 16,860 or 16-2/3%
SHE-7 x 12 actually inflates their air freight
figure by 50%.

Motor Transport Company, Sheboygan Terminal, handles in addition to the Sheboygan area freight, the freight from the Manitowoc-Two Rivers area. Air shipments from our area were included in the Sheboygan figures thus inflating the figures. Much of the air freight moving from the Manitowoc-Two Rivers area included in Motor Transport's figures is either too large for North Central to handle or the overflow that North Central could not handle.

North Central can handle only small package air freight. Motor Transport figures are not detailed enough to show the usable air freight for North Central Airlines. Their figure includes all air freight tendered to them and being familiar with shipments originating in the Sheboygan area, many are too large to be handled on DC3 equipment and, therefore, their estimates of air freight are not completely broke down to show how much of this air freight generated in Sheboygan could have been handled via North Central Airlines if they had been certified to operate during the period of Sheboygan's survey.

SHE-8

This exhibit which attempts to show a long standing record of large volume air freight to around the world destinations handled via the Motor Transport Company again includes Manitowoc-Two Rivers tonnage. It is based on the heavy end of the year thus is very much inflated. Using North Central Manitowoc figures

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from September 15, 1961 through December 31, 1961, air freight would have been as follows:

September, 1961	8,430 lbs.	(1/2 of month)
October	15,152	"
November	14,708	"
December	<u>15,274</u>	"
Total	53,564	" or 53.4% of 100,964-lb. annual volume

Air freight by nature is expedited freight as compared with normal movements via truck or rail. For this reason, most air freight becomes available because it's needed to fit customer's production schedules, special sales promotion or other urgent reasons that warrant the higher cost. For this reason, it is unreasonable to assume that if you have three shipments for Columbus, Ohio, during the period of the survey, you will have 9.9 shipments to Columbus annually. These emergency situations do not come on a regular schedule.

The 3-1/2-month survey because of its relatively short duration represents a high degree of sampling error.

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SHE-9

Sheboygan's assumption that inbound air freight equals outbound is not correct. See MTR 1.10. 1959 inbound is 50% of 1959 outbound. SHE-13 also shows air express SHE inbound 43% of outbound, so their own figures of record do not substantiate their claim that inbound air freight equals outbound air freight.

SHE-13

1959-60 Air Express

<u>Month</u>	<u>SHE (4) A</u>	<u>MTW OUT</u>	<u>MTW IN</u>	<u>MTW TOTAL</u>
April, 1959	3,962	4,432	2,186	6,618
May	4,889	6,915	3,228	10,143
June	6,025	8,603	6,844	15,447
July	6,064	7,057	3,560	10,617
August	6,710	7,037	1,934	8,971
September	7,669	8,074	2,966	11,030
October	7,333	8,039	3,182	11,221
November	4,388	6,765	2,436	9,201
December	6,924	8,458	1,872	10,330
January, 1960	4,113	7,171	3,162	10,333
February	5,244	5,682	2,289	7,971
March	<u>3,596</u>	<u>6,257</u>	<u>2,770</u>	<u>9,027</u>
	66,917	84,480	36,429	120,909

MTW develops 80% more Air Express Tonnage

Source (a) SHE-13

(B) NOR-MTW Figures In and Out Air Express

Page 2 SHE-13 again shows loaded statistics; to wit: last quarter x 4 is not representative. This is heavy part of year, includes Christmas Business, historically high period for Railway Express Company.

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SHE 18-19-20

These exhibits we feel develop the question
"Will passengers actually use SHE if service were
offered?".

Milwaukee connection point was used by 694 out of
787 passengers surveyed.

Availability for Trunk Connection at MKE

A.	<u>Time</u>	<u>Mileage</u>	<u>Cost</u>	
Check in at SHE	:20	-	-	
SHE to MKE	:26	55.0	5.79	
Min. Connection Time	:40			
	1:26	55.0	5.79	
B. From: Trunk Line Connection				
	<u>Availability</u>	<u>To</u>	<u>Total Time</u>	<u>Highway Direct</u>
	<u>From SHE</u>	<u>SHE</u>	<u>Mileage &</u>	<u>to MKE</u>
			<u>Cost</u>	<u>Plus</u>
				<u>20 Min.</u>
Plymouth, Wis.	Time 1:26	:20	1:46	1:50
	Mileage 55.0	10.0	65.0	63.0
	Cost \$5.79	\$.85	\$6.64	\$5.36
Sheboygan Falls, Wis.	Time 1:26	:10	1:36	1:45
	Mileage 55.0	3.0	58.0	60.0
	Cost \$5.79	\$.26	\$6.05	\$5.10
Oostburg, Wis.	Time 1:26	:25	1:51	1:37
*Northbound out of route	Mileage 55.0	*13.0	68.0	54.0
	Cost \$5.79	\$1.11	\$6.90	\$4.59
Cascade, Wis.	Time 1:26	:30	1:56	1:44
	Mileage 55.0	15.0	70.0	59.0
	Cost \$5.79	\$1.28	\$7.07	\$5.02
Waldo, Wis.	Time 1:26	:20	1:46	1:38
	Mileage 55.0	11.0	66.0	55.0
	Cost \$5.79	\$.94	\$6.73	\$4.68
Elkart Lake, Wis.	Time 1:26	:30	1:56	2:00
	Mileage 55.0	17.0	72.0	70.0
	Cost \$5.79	\$1.45	\$6.24	\$5.95
Kohler, Wis.	Time 1:26	:15	1:41	1:49
	Mileage 55.0	5.0	60.0	62.0
	Cost \$5.79	\$.43	\$6.22	\$5.27

Source MTR 4.50 42 mph AAA average plus 20 minute check in

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C. Summary Availability for Trunk Line Connection at MKE

	<u>Via SHE</u>	<u>Highway to MKE</u>	<u>Difference Via Highway</u>
Plymouth, Wis.	1:46 \$6.64	1:50 \$5.36	:04 Longer \$1.28 Cheaper
Sheboygan Falls, Wis.	1:36 6.05	1:45 5.10	:09 Longer \$.95 Cheaper
Oostburg, Wis.	1:51 6.90	1:37 4.59	:14 Shorter \$1.31 Cheaper
Cascade, Wis.	1:56 7.07	1:44 5.02	:12 Shorter \$2.05 Cheaper
Waldo, Wis.	1:46 6.73	1:38 4.68	:08 Shorter \$2.05 Cheaper
Elkart Lake, Wis.	1:56 6.24	2:00 5.95	:04 Longer \$.29 Cheaper
Kohler, Wis.	1:41 6.22	1:49 5.27	:08 Longer \$.95 Cheaper

In view of small difference in transit time air via SHE and Highway direct to MKE and the fact that Highway is cheaper, most passengers will continue to drive to MKE as they presently do to have auto available for return trip. Passengers must shorten their working time at destination in order to return to SHE same day avoiding night lodging at ORD or MKE.

Latest flights from cities listed below in order to make connection

	<u>Connecting to SHE</u> (NOR579 4:30 P.M. ORD) (NOR579 5:20 P.M. MKE)	<u>Connect to MKE Direct</u> or via (NW491 10:45 P.M. ORD)
Boston, Mass.	AA41 12:10 P.M. (ORD)	UA747 5:30 P.M. (ORD)
New York, N.Y.	NW903 1:15 P.M. (MKE)	TW801 9:00 P.M. (ORD)
Washington, D.C.	UA427 12:00 Noon (MKE)	AA355 6:30 P.M. (ORD)
Miami, Fla.	EA120 12:55 P.M. (ORD)	EA112 6:55 P.M. (ORD)
Atlanta, Ga.	DL885 11:50 A.M. (ORD)	NW721 7:50 P.M. (ORD)
New Orleans, La.	EA124 7:35 A.M. (ORD)	DL860 5:30 P.M. (ORD)
Buffalo, N.Y.	UA141 1:50 P.M. (ORD)	UA311 8:15 P.M. (ORD)
Cleveland, Ohio	UA171 2:10 P.M. (MKE)	UA617 9:10 P.M. (ORD)
Dayton, Ohio	UA41 11:10 A.M. (ORD)	TW265 7:45 P.M. (ORD)
Louisville, Ky.	EA164 1:15 P.M. (ORD)	EA142 7:10 P.M. (ORD)
Dallas, Texas	BN20 9:00 A.M. (ORD)	BN40 6:25 P.M. (ORD)
Detroit, Mich.	VA277 1:10 P.M. (MKE)	UA403 8:35 P.M. (MKE)
St. Louis, Mo.	AA536 1:00 P.M. (ORD)	AA340 8:30 P.M. (ORD)
Minneapolis, Minn.	UA628 2:40 P.M. (MKE)	NW912 9:30 P.M. (MKE)

Source: Official Airline Guide, Quick Reference May 15, 1962
Edition

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Before the
CIVIL AERONAUTICS BOARD
WASHINGTON, D.C.

MANITOWOC-TWO RIVERS, WISCONSIN
Service to Sheboygan and Manitowoc Area
Docket No. 9767

My name is Mead F. Hansen. I live in the City of Manitowoc, Wisconsin, and my business address is 304 Wood Block (904A South 8th Street). I am employed as Manager of the Manitowoc Chamber of Commerce. I was born and raised in the City of Manitowoc and have lived here for the past sixty years.

I have been employed in my present capacity since 1929 and for approximately five years prior to 1929 was the Boy Scout Executive in Manitowoc County. In addition to my duties as Manager of the Chamber of Commerce, I have been secretary of the Manitowoc United Fund (Community Fund) since its organization in 1930 and secretary of the Manitowoc-Two Rivers Traffic Club since 1937.

The testimony contained in this exhibit and the exhibits I am sponsoring, as listed in MTR-T-3, were prepared by me, under my direction and supervision or at my request. They were true and correct to the best of my information and belief at the time of their preparation and filing.

The purpose of this testimony and exhibits is to show the general economic character of the area now served by the Manitowoc County airport and to emphasize the

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need for continued scheduled air service at the Manitowoc Airport.

Exhibits sponsored by me are: MTR-2.10 thru 2.53, MTR-2.60 thru 2.72, MTR-4.44, MTR-T-3. The exhibits comparing Manitowoc-Two Rivers and Sheboygan economic characteristics and those comparing Manitowoc County and Sheboygan County economic characteristics are intended to show that Manitowoc-Two Rivers is growing at a faster rate than Sheboygan and that this growth pattern is also reflected in our respective counties.

Sheboygan through Rebuttal Exhibit R-2, intended to show that Sheboygan was and still is somewhat larger than Manitowoc-Two Rivers and that certain economic factors exceed this population differential. In Sheboygan Rebuttal Exhibit R-3 similar comparisons are made for our respective counties.

Exhibits MTR-2.20 (pages 1 and 2 of 4), MTR-2.21, MTR-2.23 and MTR-2.39 are copies of informational material used for general distribution by the Manitowoc Chamber of Commerce. Exhibits MTR-2.20 (pages 2 and 3 of 4) and MTR-2.22 are informational materials issued by the Two Rivers Chamber of Commerce.

Exhibit MTR-2.10 was prepared by the Manitowoc County Planning and Park Commission and shows airports in eastern Wisconsin receiving airline service, those airports without airline service, types of highways and shortest distance between cities following the state highway system.

Exhibits MTR-2.30, MTR-2.31, MTR-2.32, MTR-2.34, MTR-2.35, MTR-2.36, MTR-2.41, MTR-2.42, MTR-2.43, MTR-2.44, MTR-2.45, MTR-2.46, MTR-2.50, MTR-2.51, MTR-2.52, MTR-2.53 and MTR-2.71 consist of statistics taken from publications issued by the U. S. Department of Commerce Bureau of Census. At the time these exhibits were prepared, the figures used were the

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latest available. In several instances, the figures used were those referred to by the U. S. Census Bureau as preliminary figures. In some of the exhibits prepared by my staff, the Two Rivers Chamber of Commerce and those included in Sheboygan Rebuttal Exhibits R-2 and R-3, different sets of figures may appear, all stating the U. S. Department of Commerce Bureau of the Census as the source. In our case the final figures for several categories were not available at the time the exhibits were being compiled. A phone call to the Chicago office of the U.S. Department of Commerce was made at the time our exhibits were being prepared to verify some of the figures used.

Since then final reports for the State of Wisconsin covering Retail Sales, Wholesale Trade and Selected Services in 1958 have been received at our office and figures from these reports have been included in Revised Exhibits MTR-2.35, MTR-2.36, MTR-2.37, MTR-2.42 and MTR-2.44.

To substantiate our contention that Manitowoc-Two Rivers is growing at a faster rate than Sheboygan you are referred to Exhibits MTR-2.30 and MTR-2.50. In the year 1910 Manitowoc had a population of 13,027 and the Two Rivers population was only 4,850 for a combined total of 17,877 persons. In this same census year Sheboygan had a population count of 26,398 or 8,521 more than the combined count of Manitowoc and Two Rivers.

From 1910 to 1960 the population of Sheboygan increased by 19,349 and that of Manitowoc-Two Rivers increased 26,791. Not only did Manitowoc-Two Rivers increase at a faster percentage rate from 1910 to 1960, but also the number of persons actually was 7,442 greater than for Sheboygan. An examination

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of Exhibit MTR-2.50 will show that the growth of Manitowoc and Two Rivers was quite consistent over this 50-year period.

A comparison of 1950 and 1960 census figures for cities with more than thirty thousand population in 1960 shows the city of Sheboygan dropped from the 8th ranking city in Wisconsin in 1950 to the 10th largest in 1960. The city of Manitowoc held its ranking, being the 17th largest city in the state in both 1950 and 1960 census years.

An examination of other exhibits will show with few exceptions that this population growth pattern carries over into other categories and is particularly in evidence in industrial development, see Exhibits MTR-2.32 and MTR-2.34. Not only did Manitowoc-Two Rivers greatly exceed Sheboygan in growth rate in both the number of industries and employment, but again as with population growth the actual growth in numbers was greater. From 1939 to 1958 Manitowoc-Two Rivers had a net gain in the number of industries of 34 compared to 25 for Sheboygan and a net gain in the number of industrial employees from 1939 to 1958 of 4,900 for Manitowoc-Two Rivers compared to an increase of 2,067 for Sheboygan. The increase for just the city of Manitowoc exceeded that of the city of Sheboygan (28 to 25 in the number of industries and 3,439 industrial employees to 2,067).

Much emphasis has been placed in the Sheboygan Initial and Rebuttal Exhibits on Sales Management figures covering retail sales for our respective cities and counties. Sales Management reports are based on estimates and a comparison of 1958 figures on Retail Sales as reported by the U. S. Department of Commerce Bureau of the Census and Sales Management

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show how many millions of dollars apart they can be
(See Revised Exhibit MTR-2.42 and She Rebuttal Exhibit
R-5).

Please note that for Sheboygan County Sales
Management estimated retail sales \$7,872,000 higher
than the U.S. Census reported and for Manitowoc
County S.M. estimates for 1958 were \$3,514,000.
too high. Sales Management credited almost all of
the Sheboygan County excess to the city of Sheboygan
Retail Sales--\$7,483,000. In the case of Manitowoc,
Sales Management estimates for retail sales as per
She Rebuttal Exhibit R-5 were \$4,863,000. above the
U. S. Census Report and for Two Rivers the estimate
was \$2,133,000. above the U. S. Census figures. The
total excess for Manitowoc-Two Rivers in Sales Manage-
ment estimates for 1958 amounted to \$6,996,000. or
nearly twice the excess estimate for Manitowoc County.
The use of these figures to replace the U.S. Census
reports must be questioned as should be the use of
Sales Management estimates for Retail Sales in 1960
for Manitowoc and Sheboygan County, which indicates
a loss of over \$1,000,000. between 1958 and 1960 for
Manitowoc County and an increase of approximately
\$13,600,000. for Sheboygan County during the same
two-year period. The next U. S. Census of Business
will be the judge.

I have also noted in the Sheboygan Initial
Exhibit SHE-3, line 3, under Retailing the statement
that the city of Sheboygan ranked third highest
in Wisconsin (9th in population). A check of the 1958
Census of Business-Retail Trade-Wisconsin shows the fol-
lowing cities ranked ahead of Sheboygan in retail sales:
Milwaukee, Madison, Racine, Green Bay, Kenosha, LaCrosse,
West Allis, Appleton and Oshkosh. This would rank
Sheboygan as tenth (10th) in population (1960 census) and

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tenth (10th) in retail sales (1958 census) among Wisconsin cities.

I can understand that community pride encourages the use of the most favorable figures available, but when statements of relative position become a part of a decision I believe it is of the utmost importance that this be called to the attention of the Examiner.

On Page 5 of the Examiner's Initial Decision rendered on July 17, 1961, is the following:

"Sheboygan is the business 'hub' of east central Wisconsin. While this city ranks ninth in size among Wisconsin urban centers, it ranks third in retail sales."

According to U. S. Census reports the ranking should be tenth in population and tenth in retail sales.

We point this out because the Examiner in his decision was misguided by the Sheboygan claims.

A question must be raised concerning the use of the number of light, gas and telephone customers on a comparison basis (see Sheboygan Rebuttal Exhibit R-2). Surely, one would not expect to find more gas installations than installations for water service in any city and both Manitowoc and Two Rivers have municipal electric services with restrictions on the area served. The Sheboygan Rebuttal Exhibit R-2 shows 22,880 electric customers to a combined total of 16,029 for Manitowoc-Two Rivers. The figures used are not comparable.

In SHE Rebuttal Exhibit R-4 figures released monthly by the Wisconsin State Industrial Commission have been changed for Sheboygan by the inclusion of Kohler workers living in Sheboygan. If the Wisconsin State Industrial Commission intended these reports to be worker resident studies, they would issue such report. The monthly figures released for certain Wisconsin cities are of Industrial Employment within

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these cities. The city of Two Rivers is not included in the monthly report of the Industrial Commission and, therefore, figures for Two Rivers were not included in MTR Exhibit 2.33. If industrial employment for the city of Two Rivers were included even at the 1958 census figure this would add over 3,300 persons to the Manitowoc figure for any of the fifteen months.

The annexation of areas between Manitowoc and Two Rivers by each of the municipalities has almost fused the two communities. The construction of Mirro Plant No. 5 and their new rolling mill has speeded the process. The closing of the land space between the two communities will be further speeded up by several other recent developments including the construction of a Catholic high school, reconstruction of Memorial Drive between Manitowoc and Two Rivers and the announcement of the construction of a new major plant by the Hamilton Mfg. Co.

The interest in aviation in Manitowoc dates back to 1925 when efforts to secure a municipal airport began and culminated in the construction of one of the first such airports in Wisconsin in 1928 at a cost of approximately \$75,000. One of the early cabin monoplanes was designed, built and flown at Manitowoc about 1929.

The 61st Coast Artillery (AA) conducted summer training at Manitowoc in 1936 and 1937 and used the Manitowoc airport for basing target planes. Boundary lights were installed to permit night use of the airport.

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As far back as 1944 we in Manitowoc made a determined effort to get together with Sheboygan to plan for and build an airport between the two cities, either as a joint two-city or two-county venture. No interest in a joint undertaking could be stimulated in Sheboygan so that in early 1946 we decided to go it alone and promote the expansion of our municipal airport which had been in operation since 1928.

Wisconsin Central Airlines (now North Central) was given authorization in 1946 to serve a number of Wisconsin cities over Route 86 including both Manitowoc and Sheboygan. I have been unable to uncover even a suggestion that Manitowoc and Sheboygan should get together to provide a joint airport facility. In order to secure service over Route 86 each community was expected to provide at least a Class 3 airport. However, it took us until 1950 to secure the necessary local Council action, prepare plans and obtain the necessary federal and state aid commitments.

We went ahead with our project in good faith and I represented ^{MANITOWOC} at two hearings in Washington. In January, 1951, we appeared in support of Wisconsin Central Airlines for an extension of their certificate of service and to urge retention of Manitowoc on Route 86. In September, 1951, Deputy State Attorney General Stewart Honeck and myself appeared personally before the Civil Aeronautics Board on an adverse ruling by the Examiner. The Board in January, 1952, ruled in favor of Manitowoc and authorized scheduled airline service to Manitowoc. The Class 3 airport was dedicated on October 4, 1953, and scheduled service began November 1, 1953.

To the best of my knowledge no representative from Sheboygan appeared at any of the hearings, nor did

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Sheboygan intervene in the Wisconsin Central Renewal Case. However, in 1956 a contact was made with me by a small committee from Sheboygan regarding the possibility of establishing a joint airport. After our long-time effort I must be forgiven if I did not jump with joy and propose the dumping of our airport investment (at that time) of \$400,000. with scheduled airline service.

I have checked my files, records and scrapbooks and nowhere have I been able to find until recently any statement made by a representative of any government agency even suggesting that Manitowoc and Sheboygan get together on a joint airport facility. I am sure that neither Manitowoc nor Sheboygan would have built their present airports without federal and state aids. I appreciate the fact that air service in Wisconsin has progressed from the use of the Electras to DC-3's and now to Convairs with resulting problems.

The Manitowoc Airport has been taken over from the municipality by Manitowoc County and further improvement to and expansion of the present facility is ready to go.

Manitowoc has been bypassed as far as the interstate highway system is concerned. There are no expressways linking Manitowoc to neighboring cities with scheduled air service nor do we even have a super highway comparable to U. S. 41. Without any of these type of highways the required travel time to existing airports is greater. Most Manitowoc-Two Rivers area travelers would not use the air service out of the Sheboygan airport for many of the same reasons Sheboygan travelers are not using the present service out of Manitowoc, and in addition, once they had driven by auto to the Sheboygan airport would prefer to continue on to Milwaukee where the number of flight connections were much greater. However, the planned improvements

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south of Sheboygan (see exhibit MTR-R-4.44) will by
1970 considerably reduce the travel time to Mitchell
Field, Milwaukee.

Scheduled air service to Manitowoc County is
important to our future growth and prosperity.

TESTIMONY OF

FRANK N. BUTTOMER
VICE PRESIDENT
NORTH CENTRAL AIRLINES, INC.

IN THE PROCEEDINGS ON REMAND FOR SERVICE TO SHEBOYGAN, WISCONSIN

DOCKET 9767

- Q. What is the position of North Central with respect to serving the Manitowoc/Sheboygan area?
- A. Our position on remand is the same as in the original proceeding. There is no need for service at Sheboygan. We feel that the regional airport concept is applicable to the Manitowoc/Sheboygan area and that Sheboygan should be served through the Manitowoc airport.
- Q. Has North Central changed its traffic forecast in the remanded proceeding from that presented in the original proceeding?
- A. No. However, in analyzing whether the service to the Manitowoc/Sheboygan area should be provided through the Manitowoc airport or the Sheboygan airport, the traffic forecast and other traffic generating material necessarily had to be considered. We have reviewed the current information on Sheboygan's traffic generation and buying power indexes. This is shown in NOR-121, Revised. We have also available to us now the distribution pattern as determined by the City of Sheboygan from a local travel agency's ticket stub analysis. This analysis as applied to the 1961 buying power index base shows 400,125 revenue passenger miles would be generated for 6581 passengers. (NOR-123). A similar analysis of Sheboygan's traffic potential was made based on the 60 actual origin and destination passenger distribution. This showed that if 6581 passengers were generated they would travel 605,422 revenue passenger miles (NOR-122, Rev.). Both of these figures are substantially less than Manitowoc's actual revenue passenger miles generated in 1961 of 843,607 set forth in Exhibit NOR-118, p.5.

- Q. What is the principal difference between the distribution system based upon the Manitowoc O & D and on the Sheboygan ticket stub analysis?
- A. The principal reason for the difference in revenue passenger miles generated is the number of passengers that transfer at Chicago and Milwaukee (NOR-R-205). The Manitowoc O & D passengers show that 24% of the passengers connect at Milwaukee to and from other carriers, and 64% at Chicago. The Sheboygan study, SHE-37, shows that 48% connect at Milwaukee and 50% connect at Chicago. This difference is reflected in the revenue passenger miles set forth in Exhibit NOR-122, page 2, and NOR-123, page 2. As you recall, the testimony of the City witnesses presented by Sheboygan at the original hearing substantially supports the analysis which Sheboygan, itself, made in SHE-37. It also substantially contradicts the arbitrary allocations made in Sheboygan's traffic forecast wherein only 20% of the traffic was estimated to connect at Milwaukee and 70% was estimated to connect at Chicago.
- Q. Does the North Central revenue passenger mile estimate for Sheboygan, based on 1961 O & D and other indexes, make an allowance for its proximity to Milwaukee?
- A. Yes. Sheboygan is only 57 miles from Milwaukee. In Exhibit NOR-122, North Central has made an estimate of the effect of proximity on the passengers to be generated with Manitowoc traffic as a base. Manitowoc traffic has an inherent or built-in infirmity because of its proximity to Milwaukee. However, Sheboygan is even closer and would experience a greater diminution in its traffic. We have estimated this adjustment for Sheboygan to be between 25-40% (NOR-122 Revised). ^{1/} This figure is reflected in both the Manitowoc distribution analysis in NOR-123 Revised, which revenue

^{1/} In NOR-R-207, Manitowoc actually experienced 41% proximity loss in 1961. North Central's estimate in the original case of 64% is reasonable because Sheboygan is closer to Milwaukee.

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passenger miles have been previously set forth.

Q. Have you made any studies attempting to correlate the volume of passengers generated with distance from a substantial airport center?

A. Yes. We have made such an analysis on North Central's system in NOR-R-201 and 202. These exhibits show that cities more than 200 miles generate substantially greater traffic than cities less than 200 miles. It further shows that as the distance decreases, the passengers per index unit decrease, even to the point of insufficient traffic to justify service, e.g., Port Huron and Pontiac, Michigan (NOR-104 and 105). The general system study is set forth in NOR-102 reaching the same conclusion. The studies support our proximity adjustments.

Q. Does the distribution analysis to which you referred also make an allowance for any self-diversion which might result from adding Sheboygan to your existing system?

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- A. Yes. In both of these exhibits there has been included an estimate of self-diversion, as we now carry most of the present Sheboygan passengers between Chicago and Milwaukee. This can be seen from NOR-122 and 123. In the Manitowoc distribution, there is an estimate of 50% self-diversion, whereas in NOR-123, Sheboygan stub analysis shows that 70.1% of Chicago-Milwaukee traffic moved on North Central. The Sheboygan analysis is based upon their own surveys and the Manitowoc estimate is based upon my own judgment. These adjustments, among other things, are reflected in forecasted revenue passenger miles set forth in Exhibits 122 and 123.
- Q. Are the 6581 unadjusted forecasted passengers for Sheboygan new passengers?
- A. No. Substantially all of these passengers are presently using North Central or some other airline. These Sheboygan passengers are being served or could be served through Milwaukee or Manitowoc. NOR-103 shows that when Appleton and Oshkosh were certificated to serve the Appleton/Oshkosh area, the total passengers did not increase but were divided between the two stops. It is my opinion that the Sheboygan passengers are now traveling by air mostly through Milwaukee. There would be few or no new passengers developed by adding an additional stop at Sheboygan.
- Q. Would a stop at Manitowoc and Sheboygan on flights between Green Bay and Milwaukee be an inconvenience to the passengers north of Sheboygan?
- A. Yes. The added stop is obviously time consuming and undesirable from the standpoint of the passengers north of Sheboygan. A substantially greater number of passengers north of Sheboygan will be inconvenienced

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for the benefit of less than 6500 Sheboygan passengers who already have or can receive air service at a reasonably close airport.

Q. If Sheboygan were certificated as a separate point on North Central's system in addition to Manitowoc, would North Central's subsidy be increased?

A. Yes. NOR-138 shows that in 1961 the actual subsidy paid to North Central's system was \$8,270,670. The net increase in subsidy under North Central's class mail rate for the added station is \$68,037.

Q. Mr. Buttner, should the Manitowoc/Sheboygan area be served through a regional airport?

A. Yes. In my previous testimony I have alluded to the fact that this "golden quadrangle" -- an area of 40 x 120 miles, including Manitowoc and Sheboygan -- is served by nine airports. This is perhaps one of the most intensively served regions in the country. A 50-mile radius of Manitowoc and Sheboygan would include two Class 3 airports capable of serving both cities. The area justifies air service. However, if the area is exclusively served by the Sheboygan airport, which lies in the shadows of Milwaukee, service to the entire area is endangered. On the other hand, a regional airport at Manitowoc, if properly publicized, advertised and promoted, using both the names of Sheboygan/Manitowoc in station designations, would benefit both Manitowoc and Sheboygan. The emphasis should be on unity rather than division. The results could increase schedules and reduce cost to the Government.

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Q. Can you tell us of the road conditions between Sheboygan and its airport, between Sheboygan and Manitowoc's airport, and between Manitowoc and Sheboygan's airport, and between Manitowoc and its airport?

A. The road conditions in this whole general area are very similar. There is not any substantial difference between the kind of roads or the size of the roads serving this area. There is a minimum amount of four-lane highways. The roads are substantially all dual-lane macadam highways. From time to time, one part or another of the road is subject to maintenance by the local authorities. The traffic patterns over these highways are substantially similar between the points, depending upon the time traveled.

Q. Is there a four-lane express highway being constructed between Milwaukee and Sheboygan among other cities?

A. Yes. When this highway is completed, a substantial reduction in the driving time between Milwaukee and Sheboygan can be anticipated, amounting to 20% of the present driving time of 74 minutes. An additional substantial reduction is anticipated when the beltline road around the heart of Milwaukee is completed. This beltline will permit substantial savings for people desiring to go directly to the airport without entering congested Milwaukee.

Q. Mr. Buttner, do you consider 74 minutes a reasonably accurate estimate of the travel time between Milwaukee airport and Sheboygan?

A. Yes, I do. I have myself driven this distance in this time without exceeding the speed limits. When the beltline and expressway are completed, I estimate the driving time will not exceed 60 minutes.

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Q. How many schedules does North Central operate into and out of Manitowoc and how many would it operate into and out of Sheboygan if it were certificated on North Central's system?

A. North Central operates two round trips a day at Manitowoc and has operated such frequency for a number of years. For the first five months of 1962, North Central had an average of 10.8 empty seats on all of its Manitowoc flights to and from Milwaukee. If Sheboygan were certificated on North Central's system, North Central would probably operate two round trips a day into Sheboygan. North Central's operating performance over its system was 98.4% for the year 1961, the second highest in the industry. This was achieved despite the fact that it operates in an extremely cold and difficult flying region. No figures are available for North Central's performance at Manitowoc, but I assume it is substantially similar to its system performance.

Q. Is the Milwaukee airport easily accessible to Sheboygan?

A. Yes. I previously stated that I have driven between the Milwaukee airport and Sheboygan in 74 minutes, and I have also testified that when the beltline and four-lane highways are completed, I estimate that a passenger can easily drive between the points in 60 minutes. This, to me, is accessibility, as I can see no reason why the people of Sheboygan should be better off timewise than the people in Washington, Chicago and New York, who desire to use their city's airport. In addition, the people of Sheboygan have available to them another airport receiving scheduled airline service at Manitowoc, a distance of 30 miles, and a driving time of 40 minutes. The people of Sheboygan

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are fortunate in having available to them not only one airport with two round trip service, but a second airport at Milwaukee, which is one of the Nation's great airports.

- Q. Is there presently limousine service between the Sheboygan and Manitowoc or the Sheboygan and Milwaukee airports?
- A. No. Most people at the present time drive by private car, either owned or rented. If sufficient demands were available for limousine service, either to Manitowoc or Milwaukee, North Central would be willing to arrange for such service.
- Q. Do you think Sheboygan will generate five passengers per day?
- A. No. Sheboygan will not generate five new air passengers per day. It is highly doubtful whether it will generate five passengers, new, old, or otherwise, per day. In any event, the amount of revenue passenger miles to be generated in my opinion will not justify the service.

- Q. Is the airport at Sheboygan or Manitowoc capable of taking Convair aircraft?
- A. No. Neither airport has runways of sufficient length to accommodate North Central's Convair aircraft. The longest runway at Manitowoc is 3800 feet, and 3600 feet at Sheboygan. Neither airport has instrument landing system or a control tower. Both airports are lighted and have facilities for plane maintenance and housing. Both airports are capable of being expanded for Convair operation, although the cost at Manitowoc, because of its existing 3800 foot runway, should be somewhat less than at Sheboygan.
- Q. Is it feasible for a new regional airport to serve the Manitowoc/Sheboygan area located about half way between Sheboygan and Manitowoc?
- A. Yes, it is feasible and desirable, but costly at this stage since both Manitowoc and Sheboygan have airports capable of taking North Central's DC-3's. It is not likely that a third airport to serve this area will be constructed.
- Q. If the Board should find that the Manitowoc/Sheboygan area should be served by only one airport, through which airport should North Central serve the area?
- A. North Central should serve the area through the Manitowoc airport because Manitowoc is likely to generate more revenue passengers and more revenue passenger miles than Sheboygan. For example, for the year ending March 31, 1962, Manitowoc generated 5900 passengers

yielding an on-line revenue of \$36,629 (NOR-20, Second Revised).^{2/}
It is more of an inconvenience and a longer journey, by eight miles, for the Manitowoc passenger to travel to the Sheboygan airport, than for the Sheboygan passenger to travel to the Manitowoc airport (NOR-101). Moreover, the Sheboygan passenger has much greater flexibility because of his proximity to the major gateway airport at Milwaukee.

- Q. Would North Central lose more passengers by serving Manitowoc through the Sheboygan airport than they are now losing by service to Sheboygan through the Milwaukee and Manitowoc airports?
- A. Yes. North Central now is serving substantially all of the potential at Sheboygan through either the Manitowoc or the Milwaukee airports. This is so because most of the passengers developed at Sheboygan are long haul. The distance to Milwaukee and Chicago is such that it is not conducive to local O & D air travel. Manitowoc, located at a greater distance, is less affected by these considerations. Moreover, if Manitowoc passengers must travel 35 miles in a car to Sheboygan, a large percentage of these passengers will continue on by car the remaining 57 miles and board North Central or some other airline at Milwaukee.

^{2/} The 6581 forecasted and unadjusted total of passengers set forth in NOR-121, Revised, and 122, Revised, is the "potential" at Sheboygan as contrasted with the actual 5738 passengers generated at Manitowoc. (NOR-121, Revised).

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- Q. On which of the Segments 1, or 2, or 10 of North Central's Route 86 should Sheboygan be placed if the board should certificate Sheboygan?
- A. Segment 10 would be the most desirable certification. Manitowoc's 1960 on-line O & D as set out in revised NOR-117 shows that Minneapolis exchanges much more traffic with Manitowoc than to the points to the north. Since the Sheboygan traffic distribution would probably be similar, placing this city on Segment 10 would convenience more of the total passengers than either Segments 1 or 2.

TESTIMONY OF
JAMES G. RAY, JR.
RAY & RAY
CONSULTANTS FOR
NORTH CENTRAL AIRLINES, INC.

IN THE PROCEEDINGS ON REMAND FOR SERVICE TO SHEBOYGAN, WISCONSIN

DOCKET 9767

- Q. How much will it cost North Central to move its station from Manitowoc to Sheboygan?
- A. NOR-139 shows that it will cost North Central \$6500 in direct cost to move its station and personnel from Manitowoc airport to the Sheboygan airport. In addition, it will suffer the loss of all the good will and public relations and promotion expended at Manitowoc in the past in developing traffic through the Manitowoc airport. It must also incur an additional cost of familiarizing Manitowoc and persuading Manitowoc it is better, easier and more desirable to travel 31 miles to Sheboygan's airport rather than 3 miles to its own airport.
- Q. If North Central is to serve the Sheboygan/Manitowoc area through either the Manitowoc or the Sheboygan airport, from North Central's economic standpoint, which airport would be most favorable to its service?
- A. The Manitowoc airport. If we eliminate the station cost at both Manitowoc and Sheboygan, North Central's net earnings for Manitowoc amount to \$73,222 and for Sheboygan \$59,949. These earnings are based on Manitowoc 1961 revenues and North Central's estimate for Sheboygan. If Manitowoc's actual net earnings are compared with Sheboygan's estimate of \$45,571 for net earnings, the advantage to North Central is almost twice as great (NOR-137, Revised).

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Q. What is the basic assumption underlying the method of calculation used by the Bureau in developing its passenger retention factors as set out in Exhibit BER-R-3?

A. The Bureau has assumed that there is a direct one-to-one relationship between (1) the inconvenience of each mile of surface travel and (2) the passenger's decision to make his trip by air. In other words, if 100 passengers who now travel 300 miles by air are forced to drive 30 more miles to another airport -- 10% of their trip -- the Bureau assumes (a) that the trip is now 10% more inconvenient and that (b) exactly 10% or 10 of these people will not fly. The Bureau further assumes that this same "inconvenience" relationship applies to any air trip, regardless of how long or how short it may be, and regardless of whether the passenger travels entirely on-line or makes an interline connection.

Q. Is the Bureau's estimate fallacious?

A. Yes. In the first place, the Bureau's inconvenience ratio is particularly inaccurate for short trips, where travel to the airport becomes a relatively large percentage of the total trip by air. If passenger loss from "inconvenience" is to be computed by a linear relationship -- and I shall indicate why I believe a linear relationship is inadequate -- there must be a lower cut-off point to eliminate air distances so short that any combination of air and motor travel for the same distance will be an inconvenient substitute. Passengers who must drive 1/3 of their total air trip are not likely to fly at all.

Secondly, I do not believe that the same inconvenience assumption can be made in terms of the total journey of both on-line and interline

passengers. Additional surface mileage between Manitowoc and Sheboygan will cause a loss of only the on-line travel of interline passengers, as a result of the added inconvenience of their on-line trip to a major terminal airport. A Manitowoc interline passenger for New York will continue to fly to New York, regardless of what happens to Manitowoc airport.

Furthermore, I would also attack two major premises of the Bureau in its estimate of passenger retention if Manitowoc airport is shifted to Sheboygan:

- (1) implicitly the Bureau assumes that the decision of air travelers to fly or not to fly a particular journey depends upon only one variable -- distance to the airport, and
- (2) the Bureau assumes, after deriving its percentage inconvenience factor, that the relationship between inconvenience per journey and the passengers who decide not to fly is a direct linear uniform relationship. If an airport is moved one mile or .01% of a 1000 mile journey, there is little likelihood that even one out of a thousand air passengers will cancel his 1000 mile trip on that account. If the only available airport is moved 400 miles away for passengers making a 600 mile journey, very probably 100% and not 66-2/3% of the passengers will be lost to that airport. Even if an airport is moved only 31 miles, the estimated loss of passengers -- based on the relationship of 31 miles to the length of their on-line journey -- may not be exactly related to the decisions of real people.

In determining whether or not to fly, if he must now ride an additional 31 miles to the airport, the Manitowoc in-and-out passenger will consider, under the particular road conditions near Manitowoc, how much time he will save by driving and flying, as against driving, and whether time thus saved is worth the extra expenditure of money and effort to reach the airport. Also, his decision to travel by plane or by air may depend upon his interline connections. A passenger can adjust his own driving time to the terminal but cannot alter North Central's flying schedule to the connecting airport. If the Manitowoc citizen flies to Milwaukee, therefore, his choice of connecting flights will be limited or he must lay over.

A statistical estimate is only as good as the logical assumptions upon which it is based. No matter how carefully the Bureau figures are refined and adjusted, therefore, its computed retention factor fails on grounds of common sense. When common sense is translated into technical language, I would say that there is a serious question as to whether -- even if a tabulation of actual, and not estimated, passenger choices were available -- the correlation between additional ground travel and passenger loss (1) would be high enough to be significant, (2) would be meaningful, without adjustment for other variables, such as time and overall convenience to the passenger, or (3) should not be shown as either a curvilinear relationship, or as a line of least squares fitted in segments.

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Q. Notwithstanding your basic objections, have you made any recalculations of the Bureau's 87.7% retention factor, as developed in Exhibit BER-R-3?

A. Yes. This recalculation is attached to this testimony as Appendix I. It produces a recalculated overall retention factor of only 31.3% instead of the 87.7% shown in Exhibit BER-R-3. Out of the total of 5080 Manitowoc actual passengers (BER-R-3), the Bureau projects a loss of only 624 and we recalculated the figure as 3491 passengers lost.

Q. How does your Appendix I differ from BER-R-3 in method of calculation?

A. There are two important differences. In the first place, our calculation shows a total loss of all passengers now flying distances of less than 93 miles. This is based on our view that if a Manitowoc passenger must drive 31 miles to Sheboygan, he will stay in his automobile the remaining 62 miles. In other words, he will not fly if travel to the airport makes up or exceeds one-third of his total on-line distance. Secondly, we have used interline traffic only for the purpose of counting numbers of passengers, local and interline, who fly from Manitowoc to particular points. To compute the inconvenience ratio that will result from a shift in airports, we have considered only the on-line portion of the connecting passenger's trip. In contrast, the Bureau dilutes the inconvenience of the local interchange by measuring in terms of long-haul trips. If any of such passengers are en route to Hong Kong, for example, the Bureau's "inconvenience ratio" becomes absurd.

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- Q. Does the Bureau's 87.7% retention factor developed in Exhibit BER-R-3 carry over into any of the other Bureau rebuttal exhibits?
- A. Yes. This 87.7% retention factor is used by the Bureau to develop the 14,420 forecast passengers in Column b on page 1 of Exhibit BER-R-6.
- Q. How would this exhibit be affected by the substitution of your own 31.3% retention factor?
- A. The 14,420 passengers would drop to 11,037, a reduction of 3,383 passengers. At the average total commercial revenue of \$13.76 reflected in Column b of page 1 of Exhibit BER-R-6, commercial revenues would be reduced by \$46,550, and the profit of \$50,710, shown at the bottom of Column b on page 1 of Exhibit BER-R-6, would decline to a point well below the \$27,354 profit shown in Column a of the same exhibit.
- Q. How many passengers are involved in the self-diversion calculation which the Bureau has utilized in constructing its forecast of passenger miles for Sheboygan, as set out in Column a of Exhibit BER-R-5?
- A. 985 passengers. This number first appears in the Bureau's material in Appendix A of the Bureau's Brief to the Examiner.
- Q. In your opinion has the Bureau underestimated the self-diversion loss for Sheboygan in Exhibit BER-R-5?
- A. Yes. The original source of the 985 passenger figure that is utilized by the Bureau is the total Milwaukee-Chicago passengers traveling on North Central, as shown in Part "B" of Exhibit SHE-37. The total traffic tabulated in Exhibit SHE-37 is 5,642, and thus represents only a portion of the total traffic potential forecast for Sheboygan. Accordingly, the percentage relationship and not actual numbers of passengers should be used, when the sample SHE-37 material is projected.

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- Q. What per cent of the total traffic tabulated in Exhibit SHE-37 are the 985 North Central Chicago-Milwaukee passengers?
- A. The 985 passengers amount to 17.5% of the 5,642 total passengers tabulated.
- Q. What would be the effect on the Bureau's forecast of traffic for Sheboygan set out in Column a of Exhibit BER-R-5 if this percentage relationship, rather than the absolute number 985 in SHE-37, were utilized to calculate self-diversion losses?
- A. If the 17.5% percentage relationship reflected in Exhibit SHE-37 is applied to the 9,160 total passengers forecasted for Sheboygan in Exhibit BER-R-5, a total of 1,603 passengers will be self-diverted, i.e., will represent passengers carried between Milwaukee and Chicago by North Central. The self-diversion adjustment thus is increased by 618 such passengers, and the adjustment becomes 41,406 in terms of revenue passenger miles.
- Q. How would use of this percentage relationship affect the commercial revenues of Sheboygan, as shown in Exhibit BER-R-5?
- A. Revenues would be reduced by \$4,021. This calculation uses the commercial revenue yield of 9.71 cents reflected in Column a of Exhibit BER-R-5 and applies it to the 41,406 revenue passenger miles shown above.

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- Q. Does the Bureau's basic traffic forecast for Sheboygan, as set out originally in Remanded Exhibit BER-R-2 and utilized in the construction of Exhibits BER-R-5 and BER-R-6, make any significant allowance for proximity?
- A. No. The weighted average distance is only a de minimis factor in the forecasted number of passengers. This is so because (a) there are three other figures in the weighted average, and (b) two of the four figures in the weighted average are relatively enormous. Thus the distance variable is of extremely limited meaning. For example, if the population factor, departures factor and quality index factor as shown in 2 R.T. Column of BER-R-2 are held constant, and distance factor is varied from 130.3 miles, this distance variable would have to move 105 miles to below 25 miles before Sheboygan would fail to meet the Board's current "use it or lose it" minimum. This is a completely unrealistic result.
- Q. Is the weighted average distance of 130.3 miles utilized in Exhibit BER-R-2 the correct distance?
- A. No. This figure was first derived in Exhibit BAO-9. If the correct distances of 124 miles for Chicago, 57 miles for Milwaukee and 285 miles for Minneapolis are substituted in Exhibit BAO-9, a corrected weighted average distance can be calculated to be 120.5 miles. This correction reduces the P.G.I., the numbers of passengers and the passenger miles in each of the three columns of Exhibit BER-R-2.

NORTH CENTRAL AIRLINES, INC.

RECALCULATION OF THE BUREAU'S RETENTION FACTOR OF 87.7%
 AS DEVELOPED IN EXHIBIT BER-R-3

Manitowoc and:	On-line O & D (yr. end 6/30/61)	MTW on-line Mileage	% 93 of on-line Mileage	Passen- gers Lost
Cadillac	10	275	34	3
Chicago	3,390	148	63	2,136
Cleveland	10	425	22	2
Detroit	70	320	29	20
Duluth	40	307	30	12
Escanaba	20	134	69	14
Green Bay	100	34	100	100
Iron Mt.	20	155	60	12
Kalamazoo	20	278	33	7
Lansing	20	255	36	7
Milwaukee	1,080	81	100	1,080
Minneapolis	240	345	27	65
Omaha	10	695	13	1
Watertown	10	538	17	2
Wausau	30	131	71	21
Wisconsin Rapids	10	104	89	9
Total	5,080			3,491

Percent Retained

31.3%

NORTH CENTRAL AIRLINES, INC.
TRAFFIC GENERATION AT MANITOWOC
TWELVE MONTHS, YEAR ENDING MARCH 31, 1962

<u>Months</u>	<u>Number of Passengers</u>			<u>On-Line Revenue</u>
	<u>On</u>	<u>Off</u>	<u>Total</u>	
April 1961	281	316	597	\$ 3,485
May	266	288	554	3,040
June	276	305	581	3,208
July	246	244	490	3,000
August	262	247	509	3,132
September	210	209	419	2,656
October	198	222	420	2,587
November	218	196	414	2,481
December	248	212	460	3,056
January 1962	280	250	530	3,459
February	246	205	451	3,269
March	239	236	475	3,256
Total	2,970	2,930	5,900	\$36,629

Source: NOR Company Records

Docket No. 9767

Revised
Exhibit No. NOR-118
Page 1 of 2

NORTH CENTRAL AIRLINES, INC.

MANITOWOC ON-LINE RPM'S FOR 1961
SHOWING FLOW THRU PRINCIPAL GATEWAYS

	On-Line O & D Passengers		Inter- Station Miles	RPM's
	Number	Percent of Total		
<u>MILWAUKEE</u>	1,222	21.3	81	98,982
Thru Milwaukee				
Detroit	47		315	14,805
Grand Rapids	37		195	7,215
Muskegon	22		167	3,674
Lansing	17		250	4,250
Madison	13		160	2,080
La Crosse	4		270	1,080
Cleveland	2		420	840
Reed City	2		265	530
Traverse City	2		322	644
Cheboygan	1		391	391
Port Huron	1		383	383
Saginaw	1		409	409
Sub-Total	149	2.6		36,301
Total To & Thru MKE	1,371	23.9		135,283
 <u>CHICAGO</u>	3,655	63.7	148	540,940
Thru Chicago				
Kalamazoo	9		286	2,574
South Bend	7		232	1,624
Benton Harbor	2		224	448
Sub-Total	18	0.3		4,646
Total To & Thru CHI	3,673	64.0		545,586
Total South & East	5,044	87.9		680,869
 <u>MINNEAPOLIS</u>	401	7.0	290	116,290
Thru Minneapolis				
Pierre	2		674	1,348
Worthington	2		452	904
Aberdeen	1		556	556
Bismarck	1		700	700
Huron	1		547	547
Sub-Total	7	0.1		4,055
Total To & Thru MSP	408	7.1		120,345

NORTH CENTRAL AIRLINES, INC.

MANITOWOC ON-LINE RPM'S FOR 1961
SHOWING FLOW THRU PRINCIPAL GATEWAYS
(Cont'd)

	On-Line O & D Passengers		Inter- Station Miles	RPM's
	Number	Percent of Total		
<u>GREEN BAY</u>	52	0.9	34	1,768
Thru Green Bay				
Wausau	57		113	6,441
Duluth	50		289	14,450
Stevens Point	25		102	2,550
Eau Claire	22		205	4,510
Marquette	17		182	3,094
Escanaba	13		134	1,742
Iron Mountain	11		126	1,386
Menominee	10		84	840
Houghton	8		244	1,952
Rhineland	5		136	680
Ashland	4		240	960
Clintonville	4		65	260
Fort William	4		335	1,340
Marshfield	2		136	272
Oshkosh	2		74	148
Sub-Total	234	4.1		40,625
Total To & Thru GRB	286	5.0		42,393
Total North & West	694	12.1		162,738
Total Manitowoc	5,738	100.0		843,607

NORTH CENTRAL AIRLINES, INC.

 CALCULATION OF REVENUE PASSENGER MILES
 AT SHEBOYGAN ASSUMING MANITOWOC DISTRIBUTION

	Man i t o w o c			S h e b o y g a n		
	Number Passengers	RPM's	Avg. On-Line Journey	Forecast Passengers	Journey or Segment	RPM's
Total	5,738	843,607 ^{1/} ✓	147	6,581 ^{2/}		842,435 ^{3/} ✓
Milwaukee, Local	1,222	98,982	81	1,401	57	79,857
" Thru	149	36,301	244	171	220	37,620
Sub-Total	1,371	135,283		1,572		117,477
Chicago, Local	3,655	540,940	148	4,192	124	519,808
" Thru	18	4,646	258	21	234	4,914
Sub-Total	3,673	545,586		4,213		524,722
South & East	5,044	680,869		5,785		642,199
Green Bay, Local	52	1,768	34	60	51	3,060
" " Thru	234	40,625	174	268	191	51,188
Sub-Total	286	42,393		328		54,248
Minneapolis, Local	401	116,290	290	460	307	141,220
" Thru	7	4,055	579	8	596	4,768
Sub-Total	408	120,345		468		145,988
North & West	694	162,738		796		200,236

- 1/ From NOR-118 Revised
 2/ From NOR-121 Revised
 3/ Not Adjusted for Proximity ✓

Source: NOR-118 Revised
 NOR-121 Revised
 CAB Mileage Book

NORTH CENTRAL AIRLINES, INC.

SHEBOYGAN REVENUE PASSENGER MILES BASED ON MANITOWOC ✓
ADJUSTED FOR PROXIMITY AND SELF-DIVERSION LOSSES

	<u>Number of Passengers</u>		<u>RPM's</u>
	<u>Forecast</u>	<u>Calculation</u>	
Milwaukee, Local & Thru ✓	1,572		117,477
Less 40% Proximity Loss ✓		1,572x40x57	-35,842
Remainder			81,635
Chicago, Local & Thru ✓	4,213		524,722
Less 50% Self Div. ✓		4,213x50x67	-141,136
Less 25% Proximity ✓		4,213x25x57	-60,035
(SHE-MKE)			
Remainder			323,551
Green Bay, Local & Thru	328		54,248
No Adjustment			
Minneapolis, Local & Thru	468		145,988
No Adjustment			
Adjusted Total	6,581 ✓		605,422 ✓

Source: Page 1 of this Exhibit

NORTH CENTRAL AIRLINES, INC.

A COMPARISON OF NET OPERATING RESULTS AT MANITOWOC AND SHEBOYGAN ✓

	Manitowoc <u>Actual</u>	<u>Sheboygan</u>	
		<u>Our Forecast</u>	<u>Their Forecast</u>
<u>I. CIRCUITY AND ANNUAL MILEAGE</u>			
Green Bay - Manitowoc	34		
Green Bay - Sheboygan		51	51
Milwaukee - Manitowoc	81		
Milwaukee - Sheboygan		57	57
Total Above	115	108	108
Green Bay - Milwaukee	107	107	107
Circuity	8	1	1
Day (2 Round Trips)	32	4	4
Year - Scheduled	11,680	1,460	1,460
Year - Revenue (98.4%)	11,493	1,437	1,437
<u>II. AIRCRAFT OPERATING EXPENSE</u> (Stop Portion Omitted)			
Cents Per Mile	64.62	64.62	64.62
Annual Amount	\$ 7,427	\$ 929	\$ 929
<u>III. REVENUES</u>			
Revenue Passenger Miles	843,607	605,422	486,400
Commercial Revenue			
Yield - Cents/R.P.M.	9.56	9.56	9.56
Annual Amount	\$80,649	\$57,878	\$46,500
<u>IV. NET OPERATING RESULT</u>			
Annual Amount	\$73,222 ✓	\$56,949 ✓	\$45,571 ✓
Manitowoc Better	-	\$16,273 ✓	\$27,651 ✓

Note: Local Station, Regional and System and the Stop Portion of Aircraft Operating Expenses Omitted and Considered as a Stand-off.

Source: CAB/ATA Mileage Book
Current Milwaukee and Green Bay Aeronautical Charts
Carrier's Forms 41

NORTH CENTRAL AIRLINES, INC.

MANITOWOC AIR MAIL AND AIR CARGO
GENERATED IN 1961

<u>Month</u>	<u>Air Mail On</u>	<u>Air Express On</u>	<u>Off</u>	<u>Air Freight On</u>	<u>Off</u>
January	1,767	5,273	2,575	9,804	5,922
February	1,521	7,226	1,412	5,211	1,425
March	1,847	6,678	1,661	5,641	2,420
April	1,816	9,376	2,122	8,278	3,442
May	2,095	8,393	1,451	7,578	1,987
June	1,744	8,776	1,799	10,620	3,537
July	1,722	8,561	1,463	14,077	2,386
August	1,815	14,259	5,438	11,100	3,497
September	1,715	10,056	7,708	16,860	9,462
October	1,669	7,857	11,093	15,152	8,180
November	1,645	7,979	6,803	14,708	6,549
December	2,242	6,530	8,066	15,274	10,070
Total	21,598	100,964	51,591	134,303	58,870

Source: NOR Company Records

NORTH CENTRAL AIRLINES, INC.

CALCULATION OF REVENUE PASSENGER MILES
AT SHEBOYGAN BASED ON MANITOWOC DISTRIBUTION

	Manitowoc			Sheboygan		
	Number Passengers	RPM's	Avg. On-Line Journey	Forecast Passengers	Journey or Segment	RPM's
Total	6,354	886,951	139.6	7,288		884,893 ^{1/}
Milwaukee,						
Local	1,607	130,167	81	1,843	57	105,051
" Thru	150	36,706	245	172	221	38,012
Sub-Total	1,757	166,873		2,015		143,063
Chicago, Local	3,673	543,604	148	4,213	124	522,412
" Thru	18	4,478	249	21	225	4,725
Sub-Total	3,691	548,082		4,234		527,137
South and East	5,448	714,955		6,249		670,200
Green Bay, Local	256	8,704	34	294	51	14,994
" Thru	236	40,941	173	270	190	51,300
Sub-Total	492	49,645		564		66,294
Minneapolis, Local	406	117,740	290	466	307	143,062
" Thru	8	4,611	576	9	593	5,337
Sub-Total	414	122,351		475		148,399
North and West	906	171,996		1,039		214,693

^{1/} Not Adjusted for Proximity and Self-Diversion

NORTH CENTRAL AIRLINES, INC.

SHEBOYGAN REVENUE PASSENGER MILES BASED ON MANITOWOC
ADJUSTED FOR PROXIMITY AND SELF-DIVERSION LOSSES

	<u>Number of Passengers</u>		<u>RPM's</u>
	<u>Forecast</u>	<u>Calculation</u>	
Milwaukee, Local	2,015		143,063
Less 40% Proximity Loss		$60\% \times 2015 \times 57$	- 68,913
Remainder			74,150
Chicago, Local & Thru	4,234		527,137
Less 50% Self Div., MKE-CHI		$4234 \times 50\% \times 67$	-141,839
Less 25% Proximity (SHE-MKE)		$4234 \times 25 \times 57$	- 60,363
Remainder			324,935
Green Bay, Local & Thru	564		66,294
No Adjustment			
Minneapolis, Local & Thru	475		148,399
No Adjustment			
Adjusted Total	7,288		613,778

NORTH CENTRAL AIRLINES, INC.

A COMPARISON OF NET OPERATING RESULTS AT MANITOWOC AND SHEBOYGAN

I. <u>CIRCUITY AND ANNUAL MILEAGE</u>	Manitowoc <u>Actual</u>	<u>Sheboygan</u>	
		<u>Our Forecast</u>	<u>Their Forecast</u>
Green Bay - Manitowoc	34		
Green Bay - Sheboygan		51	51
Milwaukee-Manitowoc	81		
Milwaukee-Sheboygan		57	57
Total Above	115	108	108
Green Bay-Milwaukee	107	107	107
Circuitry	6	1	1
Day (2 Round Trips)	32	4	4
Year - Scheduled	11,680	1,460	1,460
Year - Revenue (98.4%)	11,493	1,437	1,437
II. <u>AIRCRAFT OPERATING EXPENSE</u> (Stop Portion Omitted)			
Cents Per Mile	64.62	64.62	64.62
Annual Amount	\$7,427	\$929	\$929
III. <u>REVENUES</u>			
Revenue Passenger Miles	886,951	613,778	430,768
Commercial Revenue			
Yield - Cents/R.P.M.	9.56	9.56	9.56
Annual Amount	\$84,793	\$58,677	\$41,181
IV. <u>NET OPERATING RESULT</u>			
Annual Amount	\$77,366	\$57,748	\$40,252
Manitowoc Better	-	\$19,618	\$37,114

Note: Local Station, Regional and System and the Stop Portion of Aircraft Operating Expenses Omitted and Considered as a Stand-Off.

Source: CAB/ATA Mileage Book
Current Milwaukee and Green Bay Aeronautical Charts
Carriers' Forms 41

NORTH CENTRAL AIRLINES, INC.

CALCULATED SUBSIDY UNDER CLASS MAIL RATE
FOR NORTH CENTRAL'S SYSTEM IN 1961 WITH ONE ADDED STATION

	Revenue Aircraft Miles (000)	Plane Miles Per Station Per Day	Rate Per Seat Mile	Standard Available Seat Miles	Computed Class Rate Subsidy	Actual Subsidy Billed in 1961
January	1,245	558	1.9252	35,416	\$ 681,829	
February	1,086	547	1.9384	31,184	604,468	
March	1,190	533	1.9776	34,143	675,212	
April	1,184	548	1.9356	33,188	642,387	
May	1,265	552	1.9288	35,522	685,148	
June	1,394	620	1.8387	39,581	727,776	
July	1,422	612	1.8627	40,503	754,449	
August	1,447	622	1.8328	41,298	756,910	
September	1,295	577	1.9138	37,631	720,182	
October	1,237	539	1.9608	36,527	716,221	
November	1,136	512	2.0364	33,304	673,203	
December	1,144	499	2.0728	33,574	695,922	
Total	15,045			431,871	\$8,338,707	\$8,270,670
Net Increase for Adding One Station						\$68,037

NORTH CENTRAL AIRLINES, INC.

ESTIMATED COST OF MOVING PERSONNEL AND FACILITIES
FROM MANITOWOC TO THE SHEBOYGAN AIRPORT

	<u>Expenses</u>	
	<u>Item</u>	<u>Total</u>
<u>Moving, Reinstallation and Test</u>		
	Radio & Navigation Equipment	2,500.00
	Telephone, Teletype, etc.	180.00
	Ramp and Office Equipment	120.00
	Sub-Total	2,800.00
<u>Leasehold Improvements</u>		
	Partitioning, Wiring, Flooring, etc.	2,000.00
	Ticket Counter, Furnishings, etc.	750.00
	Sub-Total	2,750.00
<u>Personnel Moving Expenses</u>		
	Household Effects, 3 Families	650.00
	Relocation Expense Accounts	300.00
	Sub-Total	950.00
	Total	6,500.00

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DIRECT TESTIMONY OF

L. N. Mathieu, Executive Vice President
Sheboygan Association of Commerce

Witness for Sheboygan County
Before the

Civil Aeronautics Board
Washington, D.C.

My name is L. N. Mathieu. I am the Executive Vice President of the Sheboygan Association of Commerce, with offices located at 719 Center Avenue, Sheboygan, Wisconsin. My qualifications and experience have been attested to in my original testimony.

During the preliminary phases of this Remanded Hearing, all parties have been notified that Mr. Bero is the attorney for three political entities, (1) the County of Manitowoc, (2) the City of Manitowoc, and (3) the City of Two Rivers, the three of which have "pooled their efforts" in this case and were primarily responsible for the creation and presentation of the "Exhibits in Chief" that were distributed to all other parties April 30, 1962.

In case that one or more of the "new parties" in this Remanded Hearing of CAB Docket No. 9767 may not be fully aware of the extremely broad participation by Sheboygan County political and economic entities in both the "original" and this "Remanded" hearing, I wish to again name the 12 political and economic organizations which have officially joined with Sheboygan County (making a total of 13) in its request for certification as an additional intermediate station on NOR's Segment 10 - operating between Milwaukee and the Twin Cities (MSP).

In my opinion, this universal, county-wide support (by 13 different organizations) of the Sheboygan County request for scheduled airline service is a clear indication that we - in Sheboygan County - are intensely more concerned with the matter of OBTAINING scheduled airline service than comparable organizations in Manitowoc County are concerned with RETAINING the service that they

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The 12 political and economic organizations that have JOINED with the Sheboygan County Board of Supervisors in the application for service at the Sheboygan County Airport (making, in effect, a consolidated total of 13 applicants) are all listed in Exhibit SHE-1, in the set of exhibits we submitted and distributed to all other parties as of November 9, 1960.

While it may not be necessary to do so, we frankly admit that the names of all of these participating organizations were presented as our Original "Exhibit SHE-1" because we believed that their "official participation" was the most important point in our entire presentation! We still believe that!

The 13 Sheboygan County organizations that are unified in their request that the CAB should grant their joint application for scheduled airline service at the Sheboygan County Airport (which subsequent exhibits prove will be at "no cost" to the Federal Government) are:

- | | |
|---|---|
| 1. City of Sheboygan | 7. Village of Elkhart Lake |
| 2. City of Plymouth | 8. Village of Kohler |
| 3. City of Sheboygan Falls | 9. Sheboygan Assn. of Commerce |
| 4. Village of Oostburg | 10. Sheboygan Falls Chamber of Commerce |
| 5. Village of Cascade | 11. Lakeland College, Sheboygan County |
| 6. Village of Waldo | 12. Plymouth Assn. of Commerce |
| 13. County Board of Supervisors of Sheboygan County | |

My appearance here is to sponsor exhibits SHE-101, SHE-102, SHE-103, SHE-108, SHE-109, SHE-110, SHE Rebuttal Exhibits R-1, R-2, R-3, R-4, and R-5, Supplementary Exhibit SHE-201 and Exhibit SHE-108, Page 1 (revised) of 2.

Exhibit SHE-101

This exhibit verifies the convenient location of the Sheboygan County Airport in relationship to the central business district of the City of Sheboygan. Two different routes were used in developing this exhibit. Access to the Sheboygan County Airport is available over varied routes from within the City of Sheboygan.

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with little differential in total miles and driving time. All facts and figures in this exhibit were compiled by me, using my own automobile, driven by me.

As indicated in Exhibit SHE-2, about 90% of our "Industrial/Commercial Air Traffic Potential" is generated by 61 firms which (in 1959) would have generated 5,370 airline trips to/from Sheboygan IF scheduled airline service had then been available. The total "industrial/commercial" passenger total, therefore, would be about 6,000. ALL of these 6,000 passengers (per year) and a very substantial portion of the 3,000 "non-commercial/industrial" and the other 3,000 "on/off" persons in the various "traveling salesmen categories" would all find it MUCH more convenient to be able to use the Sheboygan County Airport than the Manitowoc County Airport which is more than 30 miles away from downtown Sheboygan.

Exhibit SHE-102

In preparing Exhibit SHE-102 we used what, in our opinion, would be the two ~~most~~ direct routes to the Manitowoc Airport from downtown Sheboygan. Travel to the Manitowoc Airport via U.S. Highway 141 is preferable to travel over State Highway 42. There are several bad intersections confronting a driver when using either of these two routes. Unless a person is familiar with the route, it causes some confusion, and on County Trunk P in Manitowoc County, (on which is located the Manitowoc County Airport) directional signs were negligible. The roadway immediately abutting the Manitowoc County Airport was in poor state of repair. The road going to the terminal building appeared to be no more than tire tracks which you would find on any farm going into the fields. In our opinion the location of the Manitowoc County Airport is inconvenient to the Sheboygan user, leaving much to be desired in accessibility and physical facilities. It

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was not necessary to go through downtown Manitowoc to reach the airport, although the highway does pass through the western part of the city limits..

Exhibit SHE-103

The inadequacy of public surface transportation between the communities of Sheboygan and Manitowoc is forcefully depicted on all eight pages of this exhibit. Common carrier transportation, as furnished by the Chicago and North Western Railroad, along with that provided by the Central Greyhound Bus Lines, makes it impractical for consideration as a means for Sheboygan County residents using it in conjunction with presently scheduled North Central flights arriving or departing from the Manitowoc County Airport. This exhibit substantiates my oral testimony in the original proceedings of this hearing.

Exhibit SHE-108 (Revised)

One of the best "yardsticks" to show community growth, are the monthly reports of utility companies, financial institutions, and construction permits. Exhibit SHE-108 (Rev.) shows a continuing trend in the growth direction. Statistics listed in this exhibit are published monthly to the membership of the Sheboygan Association of Commerce, keeping our members informed as to the progress being made in the development of Sheboygan. Just recently one of our local plants has added additional manufacturing facilities, creating additional employment of 50 jobs. At this writing one of our largest employers has confidentially informed me personally of plans to construct a large addition to their present facilities, creating approximately 100 additional new jobs. A large trucking firm is consolidating their Sheboygan and Manitowoc operations and is presently negotiating for property to house this combined operation in Sheboygan. Thirty eight persons will be employed, thus increasing their present work force by fifty percent. Another out-of-town firm has indicated an

interest to construct a new plant in Sheboygan, moving its entire operation to Sheboygan from the community it is presently located in. Initial employment will be 75 persons. Four acres of land have been optioned by the firm, and architectural plans drawn for this new installation. Seven national motel chains have made inquiries within the past eight weeks relative to data pertinent to their locating facilities here. A large department store has just publicly announced a major remodeling program estimated to be over several million dollars. Negotiations are presently under way with five industrial firms from outside the area regarding their locating in Sheboygan.

The Sheboygan Port and Warehouse Terminal Limited is a privately owned corporation, whose purpose is to develop the greatest of this city's natural resources, its natural harbor. This corporation feels that the City of Sheboygan, as early as next year, will benefit by some \$200,000 from increased payroll to its citizens and additional sums that will be spent by the ships and ships' crews visiting this port. New industries will necessarily be attracted to the community with the port in full operation. Larger port communities have been turned down by some new industries the past several years due to the fact there is no land available in the immediate harbor area. Our Sheboygan firm is of the opinion that they can handle these re-locations as it has many advantages to offer interested parties. A new 32,600 square-foot additional warehouse will soon be constructed by the corporation. It also predicts that prior to the year's end of this navigation season some 60,000 tons of cargo will go over their docks. It is their opinion that regularly scheduled airline service will be important to their operational procedures.

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Exhibit SHE-109

Local air service at Sheboygan County Airport would provide more public convenience to a larger population group than at the Manitowoc County Airport. Figures published by the U. S. Census, 1960, Final Population Count, attest to this fact. Sheboygan County has a margin of 11,269 persons over published figures for Manitowoc County.

Exhibit SHE-110

We substantiate our claim that SHE County can best be served by Segment 10, and in the event a single designated airport is decided on to serve both SHE and MTW Counties, more persons would be benefited by service at Sheboygan than at Manitowoc.

This exhibit is compiled from information taken from the CAB 1960 quarterly origination/destination surveys. We have been conservative in our estimates. In column one we show a grand total figure of 5,370, which is the amount of air traffic potential we developed at line four of Exhibit SHE-2, page 2 of our original exhibits. We could have used the 8,000 total shown in Exhibit SHE-2, page 3, which would have been quite in order. However, we have "pin-pointed" the directional distribution as that is the only way we can accurately determine how many trips our businessmen make to points north of Green Bay. In order to do that we had to use the data shown in Exhibit SHE-5.

The percentage column tells the story. If Sheboygan County is certificated on Segment 10, 1,065 of our citizens, (10%,) would be benefited by one-plane service to the Twin Cities, (Mpls. and SP), only 110 citizens, (1.0%,) would be benefited by one-plane service into Upper Michigan on Segment 2.

The concept of Exhibit BER-R-3 proves that MTW will have over 100% more passengers to/from MSP and beyond than to/from all NOR stations North and West of MTW in both Michigan and Wisconsin! The same exhibit also shows that the "retained revenue passenger miles to be generated by passengers between MTW (when served through the SHE airport) and MSP" will be 270% more than the "retained RPM's" to all NOR stations in Michigan and Wisconsin that are North and West of MTW! The specific figures are:

COMPARISON OF "RETAINED PASSENGER VOLUMES" AND "RETAINED RPM's" WHEN (AND IF) MTW IS SERVED THROUGH THE SHE AIRPORT.				
L i n e No.	(1)	Retained Passengers		Retained RPM
		(2)	(3)	(4) (5)
	1. MTW-MSP-MTW (thru SHE)	-	219	79,497
	2. MTW-DUL-MTW (thru SHE)	36		11,700
	3. MTW-ESC-MTW (thru SHE)	15		2,280
	4. MTW-GRB-MTW (thru SHE)	9		468
	5. MTW-IMI-MTW (thru SHE)	16		2,768
	6. MTW-AUW-MTW (thru SHE)	23		3,427
	7. MTW-STE-MTW (thru SHE)	7		<u>854</u>
	8. All Stations North & West of MTW		106	21,497
	9. Percent line 1 of line 8		<u>206.6%</u>	<u>369.8%</u>

Our Exhibit SHE-110 proves that the number of passengers between SHE and MSP (including points beyond) is ten (10) times as great as the number between SHE and all points where use of the Green Bay Gateway would be beneficial!

SHE Rebuttal Exhibit-R-1

This exhibit establishes the fact that a "Sheboygan operation" would be "more profitable" than a "Manitowoc operation". We estimate that "Manitowoc-Two Rivers traffic" will add "\$2,784" to Sheboygan's profitability, whereas we estimate that "Sheboygan traffic" will add only \$1,163 to Manitowoc-Two Rivers "profits". The basis for these conclusions is the fact that a very large portion of air travel originations out of both Sheboygan and the Manitowoc-Two Rivers area are "to the South and East".

In this exhibit we have taken a conservative approach and applied a "5% growth factor" between 1961 and 1959. We made no attempt to exactly pin-point the increases, rather, we "jackpotted" them and decided that on an overall basis we certainly would be on the conservative side if we estimated an overall increase of 5% in our economy and added 5% to each of the air traffic forecasts that were based on 1959 data..

A comment about costing techniques is necessary at this point. In the Original BER-11 (April 30, 1962) BER claims that NOR's Reports to the CAB showed that its "Local Servicing Expense" at MTW in connection with the handling of 793 tons of on/off traffic (psgrs., excess baggage, express, mail and freight) totaled \$24,635, an average of \$31.03 per ton.

In "Revised BER-11" (June 29, 1962), it claims that those figures are correct for the year ended December 31, 1961. We take no exception to the use of Form 41 figures in any way! We believe they are correct. If the "total tonnage" at MTW were to increase by 10%, or to decrease by 10%, it would seem logical to assume that the "Local Servicing Costs" at MTW would - in the long run - increase at the rate of about \$31.03 per ton, OR - would decrease at about the same rate.

However, that is NOT what BER-R-5 shows! Footnote j/ states that \$24,635 covers the first 793 tons (from BER-11, Revised). Then, to cover the next "74 additional tons" (LESS than 10% of the 1961 total of 793 tons) it "injects" the use of a "BER formula" technique, which results in a rate of \$50.30 per ton - an indication that the use of the BER formula is not realistic.

The results are these:	<u>Amount</u>	<u>Rate per Ton</u>
MTW's "Local Serv. Expense" in 1961 for 793 Ton	\$24,635	\$31.03
MTW's "BER Formula Expense" for 74 Addl. Tns. in 1962	\$ <u>3,722</u>	\$50.30 1/

BER-R-5 MTW's Local Serv. Exp. for "1962" \$28,357

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Sheboygan does, and we know the Board has, accepted the use of BER's (or BAO's) "formulae" in connection with its "costing exhibits" in Local Service Air Route Proceedings. True, there are times when there is no other data available. Under such circumstances, they should be accepted, but, when much more accurate data is available, we see no reason why "National Local Service averages" should be applied.

In SHE-R-1, line 21, we have added "\$31.03 per ton". We had no reason for changing the "\$24,635" shown for MTW for that item. In our opinion, "Local service" expenses are probably more closely related to "Revenue Tons Enplaned" than any other known factor. Because of that, we divided MTW's \$24,635 for this item by MTW's revised "Revenue Tons enplaned" (794) and arrived at a "factor" of \$31.03 per ton. Applying that "factor" to SHE's 1,052 tons (line 17) we come up with a "Servicing Cost-Local" of \$32,643. This is substantially above the MTW figure for the same item, it is true. That relationship, however, is CORRECT! SHE "tons" total is about 1/3 greater than MTW's "tons" total. Consequently NOR's cost for handling that "one-third" more "tons" should be about "one-third more".

Our total for "local service" is little more than half of the figure for the same item in BER-12. We take no exceptions to the accuracy of the arithmetical, algebraic and geometric calculations that the BER has made in the preparation of this exhibit. However, we do take exception to the methodology used. The BER exhibit used a "system formula" whereas "specific figures" for a station only 28 miles distant were available.

The "costs" that enter in the "Local Servicing Expense" figure of an airlines' operation at any point are (1) monthly wage rates, (2) monthly rental and fee rates "at the airport" and "downtown" (if any), and (3) other minor expense items such as local advertising, local utilities expense, etc. There is no substantial

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difference in wage/rent rates between these two cities that are only 28 miles apart. And it is not at all likely that there is any great difference in the cost of utilities, the budgeted advertising costs, etc. for these two cities that are only 28 miles apart. Consequently, it would be much more reasonable to assume that NOR's Local Service costs and expense at SHE would be comparable (on a per enplaned ton basis) to those at MTW rather than to assume that they would be comparable to a figure developed from a theoretical formula based on all local service stations in the United States with an arbitrary "adjustment" for NOR's "average deviation"! The "formula" necessarily includes many of the high-wage and high-rent centers such as MKE, CHI, NYC, DCA, MIA, MSY, FTW, DAL, SAN, LAX, SFO, PDX, SEA, DEN, and MSP, which have absolutely no bearing on Local Service Costs at Sheboygan. And, of course, there is no reflection of those "high-wage" and "high rent" centers in BER-11's "Local Service" cost.

Consequently, it seems perfectly obvious that the only way to develop comparable figures for "Local Service" costs in two communities that are only 28 miles apart, when such costs are "known" at one community, is to calculate "Local Service" costs at the "other community", on the same basis as the actual costs (per ton) at the community where such costs are known. That is exactly what we have done in Exhibit SHE-R-1, in order to develop a reasonable "Local Servicing Expense" for the volume of traffic we estimate will be generated at the SHE Airport.

With reference to the development of "Other Commercial" and "Mail" Ton Miles as shown in BER-12, we do not claim that there is any error in the calculations, but we do believe that there is a much better method that is available for the development of these Ton-Miles figures; a method which is more reasonably comparable to the methods used in developing MTW's Ton Miles and

In Exhibits SHE-9, SHE-12 and SHE-14, all of which are in the record in this case, we presented carefully and conservatively prepared forecasts of freight, mail and express "ton-miles" (1959 volumes). Instead of using a system-wide average of "6.93% of passenger ton-miles" as was done for the development of "Other Commercial Ton Miles" (6,914) in Exhibit BER-12, it would be much better to use the carefully and conservatively prepared forecasts that are already in the record.

The use of "averages" is sometimes necessary, it is true, but that is not the case when more accurate data is available. To point out how "wrong" averages can be, let's apply the "6.93% average" to MTW. With 78,714 passenger ton miles, MTW's "Other Commercial T/M" would amount to a mere 5,434, instead of the husky volume of 46,064 T/M that remain after reducing MTW's Excess Baggage T/M from 6,218 to its correct total of 622.

If MTW generates 46,064 T/M of freight, express and excess baggage, there can be no justification for an assumption that SHE would generate only 6,914 T/M. Because of the fact that - on the whole - SHE (both city and county) outranks MTW (both city and county) in most economic characteristics (see Exhibits SHE-R-2 and SHE-R-3) it would be reasonable to assume that SHE freight, mail and express ton miles would be greater than those generated at MTW. However, SHE has not yet had an opportunity to take full advantage of air freight, air express, and air mail facilities "at home" because it does not yet have service at the SHE County Airport. Consequently, it is not surprising that MTW's "Other Commercial T/M" (as of 1961) are somewhat greater than the "Other Commercial T/M" we show for SHE in line 14 of SHE Exhibit R-1, (29,940). However, as indicated above, there is no more justification for the assumption that SHE's "Other Commercial T/M" would be as low as "6,914" than there would be for assuming that MTW's "Other Commercial T/M" should be at the "5,434" level.

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It is essential that the base periods be similar, for example:

COMPARISON OF BASE PERIODS FOR FORECASTS/ESTIMATES OF REVENUE
TONS AS PRESENTED IN BER-R-5 and SHE-R-1

	<u>MTW (BER-R-5)</u>	<u>SHE (see BER-R-2 & R-5)</u>	<u>DIFFERENCE</u>
Passengers	1961 Orig. x 2 PLUS 7% for 1962 MTW (BER-R-5)	1960 Est. of Orig. (no growth) SHE (SHE-R-1)	24 months
Mail	1961 Actual PLUS 7.1% for 1962	1960 Est. PLUS 5% for 1961	12 months
Express	1961 Actual PLUS 9.4% for 1962	Apr. '59-Mrs. '60 REA Records PLUS 5%	21 months
Freight	1961 Actual PLUS 18.4% for 1962	1957 Motor Transport Co. Records PLUS 7.5% for '58 & '59 PLUS 5% for 1960	24 months

In view of the above, as indicated on Exhibit SHE-R-1, we have used the forecasts based on 1959 data (plus 5%) for the calculation of passenger, freight, express, excess baggage and mail ton miles, and for the calculation of "revenue tons originated" (1,052) (Line 17, page 1, Exhibit SHE-R-1)

To make this testimony more meaningful and to place the words in the concept of Sheboygan County's figures, I have prepared an analytical supplementary table. The said materials are attached hereto and captioned "Supplementary SHE-Exhibit A", and are made a part hereof by reference thereto as though incorporated herein in full detail.

Exhibit SHE-R-1 clearly shows that on a strictly dollars and cents basis, North Central's total net gain from Sheboygan operations would be nearly \$4,000 greater than from a single Manitowoc-Two Rivers operation for both counties.

We realize that "nearly \$4,000" is not quite enough to completely offset North Central's estimated cost of \$6,500 in moving from the Manitowoc-Two Rivers area to the Sheboygan County Airport, but that is a "once-in-a-lifetime" cost. In less than two years, as a result of the larger total net gains at the Sheboygan County Airport, North Central will have completely recovered such costs.

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From that time forward, the United States Government will also benefit from the Sheboygan operation since North Central's larger total net gains will then be available for offsetting some of its unavoidable losses at smaller stations - thereby reducing the amount of federal subsidy that is required.

SHE Rebuttal Exhibit-R-2

The economic and civic characteristics as described in this rebuttal exhibit show Sheboygan's superiority over the Manitowoc-Two Rivers areas on the very items which they selected in their original Exhibit MTR-2.20. Sheboygan's domination in these economic fields is clearly apparent. In some instances we have eliminated items contained in the original MTR-2.20 Exhibit that we felt were "irrelevant". For brevity's sake we felt it best to eliminate what we considered "irrelevant items", but we would be very happy to provide comparative figures for those "irrelevant items" if the examiner so desired.

SHE Rebuttal Exhibit-R-3

SHE Rebuttal Exhibit-R-3 on county economic characteristics again shows the superiority of Sheboygan County over MTW County. These statistics show the trend of Sheboygan County's growth and are key indicators as to the potential which is offered in support of having scheduled air service in Sheboygan County as opposed to the airport presently serving Manitowoc County. A little later on in additional testimony we shall show further developments which will tend to increase substantially the economic characteristics of Sheboygan County.

SHE Rebuttal Exhibit-R-4

The total industrial employment of the City of Sheboygan versus the City of Manitowoc is clearly outlined in this exhibit. Figures for the City of Sheboygan include workers living in Sheboygan and employed at the Kohler Co., located three miles to the west. We

take exception to the figures published by the Wisconsin State Industrial Commission as these do not include Kohler employees, nor do they include Sheboygan employees working at Kohler. The Sheboygan office of the Wisconsin State Employment Service informs us that 42% of all Kohler employees live in the corporate limits of Sheboygan. It is readily understandable that with the larger population, Sheboygan does employ more persons in industrial work than does the City of Manitowoc.

SHE Rebuttal Exhibit-B-5

Retail sales as published annually by Sales Management Magazine is the source of this exhibit. When perusing the percentage increase from 1956 through 1960 it is noted that the City of Two Rivers, the City of Manitowoc, and Manitowoc County has decreased, while the City of Sheboygan and County of Sheboygan show a percentage increase. Again, this points to the economic stability of Sheboygan County and its environs as opposed to Manitowoc County and its environs.

Supplementary Exhibit SHE-201

This exhibit clearly indicates the effect of discontinuance of "discount on round trips" by North Central on the volume of ticket sales by the Security Travel Agency. With the INCENTIVE for round trip ticket purchases gone, ticket purchasers quit buying them. From a volume of about 1500 per year in 1959 and 1960, round trip ticket sales dropped to about 700 in 1961. As a result, the actual figures for 1961 are not comparable to the actual figures for 1959 and 1960 and consequently their failure to indicate any "growth" between 1960 and 1961 is of no significance.

In Supplementary Exhibit SHE-201, we have adjusted the 1961 round trip ticket sales to a level that is, we believe, comparable to the 1959 and 1960 volumes, even though it is about 5% lower than 1960. The adjusted figure reflects a gradual decline

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in the volume of round trip ticket sales from year to year, despite the rather substantial annual increases in the total number of passengers indicated by TOTAL SALES, when all tickets are counted as "one-ways". As the exhibit indicates, if NOR's round trip discount had been in effect throughout 1961, and assuming the same number of ticket sales transactions (4,964; Column 3), about 1,400 round trip tickets would probably have been sold, (reducing the number of "one-ways") to 3,546; (Column 2). On that basis, the 4,964 tickets that were sold would indicate 6,382 passengers, an increase of a little over 700 passengers, a growth of a little more than 10%, when compared with 1960. The indicated number of passengers in 1960 (5,642 one-way trips - Exhibit SHE-37) was about 1,800 greater than in 1959 (3,840 one-way trips, Exhibit SHE-28), an annual growth of about 47%.

Exhibit SHE-108, page 1 of 2 (Revised)

This exhibit was initiated to show a continuing growth from 1959, the year on which our exhibits in the original hearing were based, to the present time. The fact that all of these key indicators show "growth" is ample evidence that our very conservative estimate of "5% growth" - 1959 to 1962 - is justified.

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Supplementary SHE Exhibit "A"

Modifying Column B of Exhibit BER-R-6 so as to Reflect Operations at SHE on SEGMENT 10, and "Other Commercial Tonnages, Ton Miles, Servicing Costs and Revenues" as per SHE Retutal Exhibit R-1

- NOTES: 1. As in Exh. BER-R-6, it is assumed that there will be a retention of 87.7% of MTW's 1962 passengers. Average trip = 130.8 miles.
2. In re express, freight, and mail, it has been estimated that 87.5% will be retained AND that their T/M will "shrink" another 12.5% (total loss = 25%).
3. In re excess baggage, the 12.3% loss in number of passengers, AND the drop from "147.8 miles" to "130.8 miles" per passenger covers that "loss".

Total Rev. & Expense - Segment 10 Operation
(2 R.T. per day at SHE - serving both MTW & SHE Counties)

L i n e No.	(Column 1)	(Column 2)	(Column 3)
1.	<u>AIRCRAFT OPTG. DATA</u>		
2.	Scheduled stops		1,460
3.	Scheduled plane miles (BER-R-5, Col (a))		7,300
4.	Performance factor { ditto }		98.4
5.	Aircraft stops { ditto }		1,437
6.	Revenue plane miles { ditto }		7,183
7.	Aircraft hours { ditto }		235
8.	<u>TRAFFIC DATA</u>		
9.	No. of psgrs. (BER-R-6, Col (b))		14,420
10.	Rev. psgr. miles { ditto }		1,808,173
11.	Passenger tons (14,420 x 190 + 2000)		1,370
12.	Psgr. ton miles (BER-R-6, Col (b))		171,777
13.	Express ton miles (Col. 8 hereof, line 6)		18,153
14.	Freight ton miles (Col. 8 hereof, line 7)		50,374
15.	Excess baggage (Col. 8 hereof, line 8)		1,361
	(see note 3 above) { Sub Tab }		
16.	Sub total lines 13,14,15 (Col. 8 hereof, line 9)		69,888
	{ Sub Tab }		
17.	Mail ton miles (Col. 8 hereof, line 10)		9,956
	{ Sub Tab }		
18.	Total Tons (on/off) for calculation of "Servicing Expense"		1,817 tons
19.	<u>AIRCRAFT OPERATING EXPENSE</u>		
20.	Fly. optns. & mtce. (Col. (a) BER-R-5)		\$ 22,345
21.	Depr. & Rentals - flt. equip. (Col. (a) BER-R-5)		\$ 1,626
22.	Total aircraft optg. expense (Col. (a) BER-R-5)		\$ 23,971
23.	<u>SERVICING EXPENSE</u>		
24.	Local (1,817 tons @ MTW 1961 actual expense per ton - \$31.07) { Sub Tab }		\$ 56,454
25.	Regional & System (@ SHE rate per ton: \$27.72) { Sub Tab }		\$ 50,367
26.	Total operating exp. (lines 22, 24 & 25)		\$130,792

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Supplementary SHE Exhibit "A"

Modifying Column B of Exhibit BER-R-6 so as to Reflect Operations at SHE on SEGMENT 10, and "Other Commercial Tonnages, Ton Miles, Servicing Costs and Revenues" as per SHE Rebuttal Exhibit R-1

- NOTES: 1. As in Exh. BER-R-6, it is assumed that there will be a retention of 87.7% of MTW's 1962 passengers. Average trip = 130.8 miles.
 2. In re express, freight, and mail, it has been estimated that 87.5% will be retained AND that their T/M will "shrink" another 12.3%, (total loss = 25%).
 3. In re excess baggage, the 12.3% loss in number of passengers, AND the drop from "147.8 miles" to "130.8 miles" per passenger covers that "loss".

Total Rev. & Expense - Segment 10 Operation
 (2 R.T. per day at SHE - serving both MTW & SHE Counties)

L i n e No.	(Column 1)	(Column 2)	(Column 3)
27.			
28.	<u>COMMERCIAL REVENUE</u>		
29.	Passenger	(BER-R-6)	\$ 162,374
30.	Express		\$ 9,472
31.	Freight		\$ 27,429
32.	Excess baggage		\$ 1,270
33.	Sub total		\$ 38,171
34.	Mail		\$ 7,431
35.	Total revenues		\$ 207,976
36.	Less total expense		\$ 130,792
37.			
38.	Operating gain		\$ 77,184
39.			
40.	RETURN ON INVESTMENT	(@ \$2.75 per hour)	\$ 642
41.			
42.	NET PROFIT TO NOR		\$ 76,542

Supplementary SHE Exhibit "A"

Modifying Column B of Exhibit BER-R-6 so as to Reflect Operations at SHE on SEGMENT 10, and "Other Commercial Tonnages, Ton Miles, Servicing Costs and Revenues" as per SHE Rebuttal Exhibit R-1

Subsidiary Tabulations

(Footnote references in main table)

	(Column 4)	(Column 5)	(Column 6)	(Column 7)	(Column 8)
Ⓐ Determination of "Other Com'l T/M" (and total, including psgr. tons)					
	MTW	MTW '62	SHE	MTW & SHE @	
	"1962" total	less 25%	Ests	SHE on Seg 10	
Express	17,000	12,750	5,403	18,153	
Freight	35,553	26,665	23,709	50,374	
Excess baggage	520	520 3/	841	1,361	
Sub total (BER-R-5)	53,073	39,935	29,953	69,888	
Mail (BER-R-6)	4,174	3,130	6,826	9,956	
Sub total	57,247	43,065	36,779	79,844	
Passengers (BER-R-6)	--	--	--	171,777	
Total ton miles	--	--	--	251,621	

Ⓑ Determination of "Total Revenue Tons"

	"Net" for MTW	SHE Total	COMB.
Express (on/off)	96.4	35.2	132.0
Freight (on/off)	139.0	106.3	245.0
Excess baggage (on/off)	<u>4.1</u>	<u>7.0</u>	<u>11.0</u>
Sub total			388.0
Mail (on/off)	21.2	37.8	<u>59.0</u>
Sub total			447.0
Passengers (on/off)	--	--	<u>1,370.0</u>
			1,817 tons

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Supplementary SHE Exhibit "A"

Modifying Column B of Exhibit BER-R-6 so as to Reflect Operations at SHE on SEGMENT 10, and "Other Commercial Tonnages, Ton Miles, Servicing Costs and Revenues" as per SHE Rebuttal Exhibit R-1

Subsidiary Tabulations

(Footnote references in main table)

(Column 4) (Column 5) (Column 6) (Column 7) (Column 8)

- © Determination of MTW actual 1961
 Expense per ton for "Local Service"
 BER-11, Rev. P.2, (fr. CAB Form 41 Reports, Sch. P 9, 2)
 Total (for 793 tons @ \$31.07 per ton) = \$24,635
- ① Determination of SHE rate of "Regional and System" Expense
 BER-R-5, 874 tons (see line 2 of k/) totals
 \$24,224, or \$27.72 per ton (1,817 T. = \$50,367)

SHE Testimony - HRC

Before the
CIVIL AERONAUTICS BOARD
WASHINGTON, D. C.

* * * * *
* In the matter of the Application of *
* SHEBOYGAN COUNTY, WISCONSIN * Docket No. 9767
* for Scheduled Air Transportation * Remanded Proceeding
* * * * *

DIRECT TESTIMONY OF

HARRY R. CHAPLIN
Airport Manager
Witness for
SHEBOYGAN COUNTY

My name is Harry R. Chaplin. I reside in Sheboygan County in the City of Plymouth, Wisconsin. On May 1, 1960, I was employed by Sheboygan County as Supervisor of the Sheboygan County Airport. Prior to that time, I had operated Chaplin's Airpark at Plymouth, Wisconsin, for a period of fifteen years. During seven of those years, I also managed the Waupaca, Wisconsin, municipal airport.

I have been a member of the Board of Directors for the Wisconsin Aviation Trades Association since late 1946, having served as its president in 1954, and having served nine terms as its secretary, an office I still hold. I am a member of the Advisory Committee to the Wisconsin State Aeronautics Commission. I edit and publish the Badger Airway Beacon, a magazine serving Wisconsin Aviation for over twelve years. I am serving my ninth year as a member of the Aeronautics and Space Committee, of the National Security Commission of the American Legion.

The Sheboygan County Airport was first used by the flying public on November 14, 1960. At that time the airport had two hard-surfaced runways. The NE-SW runway was 3,000 feet long and 75 feet wide. The NW-SE runway was 3,600 feet long and 75 feet wide. Both runways and the wind indicator were light-

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from the original bound volume

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Since that time many improvements have been made. The NE-SW runway has been extended an additional 600 feet bringing it to a total of 3,600 feet. A second taxiway has been added. We have also provided an additional 30,000 square feet of surfaced parking ramp area. A rotating beacon was installed and commissioned in July, 1961. Improvements such as these, in the short life of the Sheboygan County Airport, are positive proof of the air-mindedness of this community.

The original hard-surfaced automobile parking lot had marked spaces for 22 cars, with ample space for traffic to flow around the lot while entering and leaving. A second surfaced lot for ten cars is located in the T-Hangar area. The main lot proved much too small, and in the Spring of 1961 the lot size was doubled with the addition of a graveled extension to the lot. The entire main parking lot was enclosed in the Fall of 1961 by a four foot high "Century" type fence. These are further indications of the progressive nature of this community.

The airport entrance roadway and parking lot is lighted by seven Mercury-Vapor lights. The aircraft parking apron and the transient aircraft tie-down area is lighted by two Mercury-Vapor lights. Originally, only one entrance road was available to the administration area. In the Fall of 1961, a second hard-surfaced entrance road was constructed. The entrance road system now forms a large semi-circle with exits on the main highway about 1000 feet apart.

Water for the Sheboygan County Airport is supplied by a well located adjacent to the administration area. This well is 250 feet deep, and of such size that it can adequately

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supply all present and future needs in the contemplated building areas. The septic tank installation is of such nature as to provide for all present installations and those of the foreseeable future. The installation is designed for future expansion to cover all proposed building area requirements. Again, I must point to Sheboygan County's foresight in meeting the requirements of its aviation community.

The Sheboygan County Airport owns a four-wheel drive, 1-ton truck with snow plow attachment, and a heavy duty tractor with industrial snow loader, 80" rotary grass cutter and 7 foot sickle bar mower. These units are based at the airport and used solely for airport maintenance. On June 15, 1962, a 30 foot by 40 foot all-metal building was erected for the storage of county-owned maintenance equipment.

Heavy snow removal is accomplished by equipment and crews furnished by the Sheboygan County Highway Department. The equipment consists of a four-wheel drive heavy truck with side plow and wing, and a large snow blower. The airport has priority on these two units. The immediate past winter was a severe one in nature. Despite the extremely adverse conditions that existed, if snow had stopped falling, there were no times when the airport was unsafe for aircraft movements after mid-morning. Except for the very few days, even after the exceptionally heavy snowfalls of winter, the runways were bare and in excellent condition. Again I point to the interest of this community in serving its aviation community, and to the cooperation between county departments. This is important when considering that our snow removal program of the past two winters was based upon serving non-scheduled operation. This cooperative spirit combined with

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to meet the time-tables of scheduled service.

The Sheboygan County Airport provides seven permanent tie-downs for transient aircraft on the hard-surfaced parking area provided for this service. The Fixed-Base Operator has provided eight additional tie-downs on the sod area immediately behind the previously mentioned tie-downs, and ten additional tie-downs on the sod area adjacent to the hangar area. Eight additional tie-downs are being installed on the ramp in front of the hangar and refueling areas. These additional tie-downs are provided so that Sheboygan County can adequately accommodate and serve the transient and local flier.

The Fixed Base Operator has a contract with the Licensee of the nation-wide car rental service, who maintains an office and rental cars at the airport at all times. Here is another manner in which this community shows its air-mindedness. This time it is the service which the air traveler needs and appreciates.

Sheboygan County has developed an Industrial Hangar Area, which provides space for the building of 17 Industrial type aircraft hangars. The development of this area is approximately 80% complete, lacking only the finish materials in the taxiways.

Ordinance No. 1, 1962, of the Sheboygan County Board provided an area for the erection of individual storage hangars for aircraft. This area provides 29 individual lots for the building of hangars by aircraft owners. On July 1, 1962, one hangar had already been completed in this area, and another hangar was under construction. Contracts for several more lots are being negotiated. Here again, the air-mindedness of Sheboygan County

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regardless of size and value. These type of lots are not encouraged at many airports, although the demand is present. SHE has made them available.

The Fixed Base Operator provides inside storage space for 10 aircraft in a multiple-T hangar installation. In addition, the FBO has a 70 foot by 80 foot large hangar designed for storage and maintenance of aircraft. At the present time, the FBO stores ten aircraft in this larger hangar. Two-thirds of all the aircraft based at Sheboygan County Airport are housed inside buildings. One of the major problems of aviation today is the lack of adequate housing for aircraft. At SHE this problem does not exist, thus pointing again to the air-mindedness of this County and the Fixed Base Operator.

The Fixed Base Operator has built the multiple- T hangar and the large hangar. These buildings are new construction, with the FBO's investment approximately \$60,000. In addition, the FBO owns the refueling equipment, which consists of two 30-gallon per minute dispensers, and two 12,000 gallon tanks. The FBO's investment in refuel equipment is approximately \$9,500. Here the FBO's investment in the aviation community is based on the air-mindedness of SHE.

On January 1, 1961, there were 13 aircraft based at the Sheboygan County Airport, including two aircraft owned by the Fixed Base Operator. On June 1, 1961, the total number of aircraft based at SHE had increased to 22. As of July 1, 1962, the total number of aircraft based at the Sheboygan County Memorial Airport had increased to 32. The constant increase in aircraft ownership in Sheboygan County shows the air-mindedness of its people.

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The 'list price' value of these SHE based aircraft is approximately \$500,000. The current 'blue book' prices on these aircraft are estimated at a total of \$336,200. These figures do not include estimates on two antique aircraft and one experimental model, upon which no true value could be placed.

The Fixed Base Operator conducts a flight school at the airport, as one of his services. During the first six months of operation, the flight school soloed one student. By the end of 1961, the school had soloed 13 students, and three students had received their Private Pilot ratings. Early in 1962, the flight school introduced the audio-visual ground school system, and has just graduated its first class, consisting of 17 students. Since the first of the year, 1962, the Fixed Base Operator's flight school has soloed seven students, and three more individuals have received their Private Pilot license.

As of July 1, 1962, the flight school has 13 active pre-solo students, 16 active solo students working toward their private pilot rating, and 10 semi-active students, who fly only on occasion. The increase in interest to fly marks another chapter in SHE air-mindedness.

The Fixed Base Operator began operations at the Sheboygan County Airport in mid-November, 1960, with two full-time employees and two part-time employees. As of June, 1962, the FBO staff included four full-time employees, and three part-time employees. By part-time employees, I refer to people who average 8-20 hours per week. The business hours of the FBO range from 12-14 hours per day, every day of the year, depending upon the season of the year.

The Fixed Base Operator began his operation at the Sheboy-

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trainer, and the other was a four-place aircraft. On July 1, 1962, the FBO had 2 two-place aircraft, one four-place aircraft with fixed landing gear, and one four-place aircraft with retractable landing gear. The FBO is a full dealer for a nationally known aircraft company. Over 1180 hours have been logged on the FBO's aircraft since operations were inaugurated at the Sheboygan County Airport. This flight time is equivalent to approximately 134,900 aircraft miles flown. In addition, the FBO's pilots have flown over 120 hours as pilots of aircraft not owned by the FBO. This is equivalent to an additional 18,000 aircraft miles.

During the first six months of operation at the Sheboygan County Airport, the Fixed Base Operator dispensed 14,747 gallons of aviation gas. During a similar period this year, a gain of 2,056 gallons was shown despite the fact that this past winter was more severe than the previous one. A total of 61,322 gallons have been dispensed during the first 19 months of operations.

In the period of June 1, 1961, to April 1, 1962, I have estimated 2,500 transient aircraft into Sheboygan County Airport. Converting this estimate to number of operations (one landing and one take-off per airplane) we arrive at the figure of 5,000 operations during that ten month period by transient aircraft. A similar study of the months of April and May, 1962, show Sheboygan County Airport with estimated 260 transient aircraft during those months, or an additional 520 operations. This would give us a total 5,520 transient operations between June 1, 1961, and June 1, 1962.

It is a conservative estimate that the locally-based

the Sheboygan County Airport as those of the transient aircraft. This being true, our total operations at the Sheboygan County Airport from June 1, 1961, to June 1, 1962, totals 16,560 operations.

In addition to his hangar space, the Fixed Base Operator has what might be termed an Administration Building of 1,920 square feet. In this section are two large restrooms, plus the FBO's office. The area is readily adaptable for public-use waiting room of more than 800 square feet, an airline ticket, baggage and radio rooms, without disturbing the present FBO's offices or the rest rooms. The office leads directly to the passenger loading ramp. Again, air-mindedness, coupled with foresight, enables Sheboygan County to meet the needs of its aviation community immediately.

In conclusion, I wish to state that these preceding paragraphs point out the degree of air-mindedness of the Sheboygan County people. The degree of air-mindedness is constantly growing. It is evident that air-mindedness is not a term that can be applied to only the County Board, its Airport Committee or its management, but is word that reflects the high degree of interest by the people themselves. The increasing number of aircraft owners, the increased number of pilots and trainees, the increased number of non-scheduled air travelers, the increased interest in the airport by industry....all of these point to an air-minded community.

I note in the testimony that Manitowoc Airport has been operating since 1954, and that after 8 years of operation they have 12 general aviation aircraft based at their county airport. While there may be no direct relationship between the number of aircraft based at an airport and the number of

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it would seem to me that the number of aircraft based at an airport in relation to the population it serves would be a reliable indication of the air-mindedness of that community. Based upon population differences, and the number of aircraft based at Manitowoc County Airport, Sheboygan County Airport should have only 14 aircraft based at its modern air facility. However, Sheboygan County Airport has 32 aircraft based thereon, or over twice the number of aircraft that we should have, if we used the Manitowoc County Airport based aircraft as a yardstick.

Based on Sheboygan County's modern airport, which is ready to provide good service immediately; based on the air-mindedness of the Sheboygan County people; based on the large and increasing number of aircraft owners, it seems reasonable to assume that the volume of on-and-off passengers at the Sheboygan County Airport would be substantially greater than the on-and-off passengers at the Manitowoc Airport...perhaps up to twice as many as at the Manitowoc County Airport.

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SHE Rebuttal Exhibit-R-1
Page 1 of 4 (corrected)

Comparison of BER-11 and BER-12
NOR's Costs (1961) at MTW and Ets. for SHE on Seq. 10

AIRCRAFT OPERATING DATA	Details or Explanation	MTW	Details or Explanation	SHE (1960 plus 5% growth)
1) Scheduled Stops	CAB F.#41	1,453	BER-12	1,460
2) Scheduled Plane Miles	8 mi. circ.	11,624	BAO-11, as revised at hearing	7,300
3) Performance Factor	Actual-1961	93.4	BER-12	97.3
4) Aircraft Stops	CAB F.#41	1,357	BER-12	1,421
5) Revenue Plane Miles	8 mi. circ.	10,856	BAO-11, as revised at hearing	7,105
6) Aircraft Hours	Line 18 + \$95.17	243	Line 18 + \$95.17	232

TRAFFIC DATA

7) Passengers	Orig. psgrs. x 2(533 tons)	5,606	{ (1960) BER-12+5% (865.8 tons)	9,114
8) Rev. Psgrs. Miles	x 147.8 mi.	828,567	{ (1960) BER-12+5% (NEI)	1,102,746
9) Psgr. Ton Miles	@ 190 pds.	78,714	{ (1960) BER-12+5%	104,761
10) Other Com'l T/M	"	-		
11) Express (enplaned x 2)	x 153.6 mi.	15,507	Exh. SHE-14+5% x 153.6 mi.	5,403
12) Freight (enplaned x 2)	x 222.9 mi.	29,935	Exh. SHE- 9+5% x 222.9 mi.	23,709
13) Excess Baggage T/M	.79% of P.T/M	622	@.79%(BER-12) of Psgr.Ton Mi.	828
14) Sub Total		46,064		29,940
15) Mail Ton Miles (enpl.x2)	x 180.6 mi.	3,897	Exh. SHE-12 x 180.6 mi.	6,826
16) Total Ton Miles		128,675		141,527
17) NOTE: Rev. Tons Enplaned		(794)		(1,052 Tons)

AIRCRAFT OPERATING EXPENSE

8) Operations & Maint--	\$13.03 per stop		Same basis as MTW	\$22,098
9) Dep't. & Rentals.	50.41¢ per mi.	\$23,155		
10) Flt. Equip.	\$ 6.94 per hr.	\$ 1,686	232 hrs. @ MTW rate	\$ 1,610
TOTAL		\$24,841		\$23,708

Comparison of BER-11 and BER-12
NOR's Costs (1961) at MTW and Ests. for SHE on Seq. 10

	Details or Explanation	MTW	Details or Explanation	SHE (1960 plus 5% growth)
21)	Local (\$31.03 per ton)	CAB F.41-'61 \$ 24,635	1052 T @ MTW rate(\$31.03)	\$ 32,643
22)	Regional & System (\$35.47 per ton)	CAB F.41-'61 \$ 28,163	1052 T @ MTW rate(\$35.47)	\$ 37,314
23)	Total Servicing Expense	\$ 52,798		\$ 69,957
24)	Total Operating Expense	\$ 77,639		\$ 93,665

COMMERCIAL REVENUE

25)	Passenger Avg. of \$13.27 per psgr.	\$ 74,392	Line 8 x MTW rate (8.984)	\$ 99,028
26)	Mail 74.64¢ per T/M	\$ 2,909	Same rate T/M as MTW	\$ 5,095
27)	Express 52.18¢ per T/M	\$ 8,092	Same rate T/M as MTW	\$ 2,819
28)	Freight 54.45¢ per T/M	\$ 16,300	Same rate T/M as MTW	\$ 12,907
29)	Excess Baggage 93.31¢ per T/M	\$ 580	Same rate T/M as MTW	\$ 773
30)	Total Com'l Revenue	\$102,273		\$120,622

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Page 2 of 4 (corrected)

31)	GAIN	\$ 24,634		\$ 26,957
32)	Return on Investment	\$ - 715	Est. @ \$3.00 per hr. 1/	\$ - 696
33)	Net GAIN	\$ 23,919		\$ 26,261
34)	Add'l. NET Psgr. Rev. "Away From Home" Psgrs. 2/	\$ 1,163	Addl. NET Psgr. Rev. 3/	\$ 2,784
35)	Total GAINS	\$ 25,082		\$ 29,045

(Manitowoc
Operation)

(Sheboygan
Operation)

- 1/ MTW = \$2.94 per hour
- 2/ Details shown on page 4 of this Exhibit
- 3/ Details shown on page 3 of this Exhibit

Development of Estimated Additional Net Passenger Revenue
To be Generated at "AWAY FROM HOME" Airport
IF only Scheduled Air Service for the
SHEBOYGAN-MANITOWOC Area is at:

L i n e

Part A. Sheboygan County Airport

Line	Calculation of No. of "Away From Home" Psgrs. and Psgr. Miles	No.	Mi.	RPM
36(SHE)	Est. MTW psgrs. to/from EAST & SOUTH via MKEL/ (@ 1/3)	380	95	20,700
37(SHE)	Est. MTW psgrs. to/from EAST & SOUTH via CHIZ/ (@ 1/3)	913	122	118,706
38(SHE)	Totals	1,363		139,406
II.	Calculation of NOR's NET PSGR. REVENUE per RPM			
39(SHE)	Average GAIN per RPM(Col. SHE, line 33 p.2, divided by line 8, page 1			\$.044228
40(SHE)	Percent Psgr. Tons (Col. SHE, line 7 (tons) page 1) of Total Tons			
41(SHE)	NOR's net Psgr. Rev. per RPM (line 39 x line 40)			82.32% \$.01994

III. Additional NET Psgr. Rev. to be Generated by MTW Psgrs.

42(SHE)	Total RPM (line 38 (SHE), 139,606) x \$.01994 (to Col. SHE, line 34, page 2)	\$ 2,784
---------	---	----------

- 1/ CAB 1960 O/D Survey as shown in SHE-110, page 1 - 1,140
- 2/ CAB 1960 O/D Survey as shown in SHE-110, page 1 - 2,920

Development of Estimated Additional Net Passenger Revenue
To be Generated at "AWAY FROM HOME" Airport
IF only Scheduled Air Service for the
SHEBOYGAN-MANITOWOC Area is at:

L i n e

Part B, Manitowoc Airport

No.	I.	Calculation of No. of "Away From Home" Psgrs. and Psgr. Miles	No.	Mi.	RPM
36(MTW)	Est. SHE psgrs. to/from WEST & NORTH <u>L</u> (@ 1/3)	200	300	60,000	
(37(MTW))	& 38(MTW) intentionally omitted)				
II. Calculation of NOR's NET PSGR. REVENUE per RPM					
39(MTW)	Average GAIN per RPM (Col. MTW, line 33 p.2, + line 8, page 1				\$.028868
40(MTW)	Percent Psgr. Tons (Col. MTW, line 7 (tons) page 1) of Total Tons				
41(MTW)	(Col. MTW, line 17)				67.12%
	NOR's <u>Net</u> Psgr. Rev. per RPM (line 39 x line 40)				\$.01938
III. Additional NET Psgr. Rev. to be Generated by SHE Psgrs.					
42(MTW)	Total RPM (line 36 (MTW), 60,000) x \$.01938 (to Col. MTW, line 34, page 2)				\$ 1,163
	<u>L</u> SHE-110, page 1, WEST 590; NORTH 10; TOTAL 600				

(Rebuttal of Exhibit MTR-2.20)

ECONOMIC & CIVIC CHARACTERISTICS

(Dollar figures for all items are in Thousands)

Item (1)	Rebuttal of Exh. MTW (2)	MTW (3)	TWR (4)	Col. 3 + Col. 4 (5)	SHE (6)	% SHE of MTW + TWR (7)
1) Population	2.20	32,275	12,393	44,668	45,747	102.4
2) Manufacturing Industries	2.20	87	25	112	126	112.5
3) Industrial Employees	2.20	6,388	3,939	10,326	7,114	68.9
4) Total Payroll	2.20	\$29,165	\$14,765	\$43,930	\$30,647	69.8
5) Mfg. Taxable Payroll (1959-Co. data)	2.20	-	-	\$46,590	\$58,290	127.3
6) Retail Stores	2.20	388	166	554	521	94.0
7) Average No. of Employees	2.20	1,882	830	2,712	2,967	109.4
8) Salaries & Wages	2.20	\$4,413	\$1,192	\$5,605	\$7,402	132.1
9) Total Sales	2.20	\$39,890	\$11,868	\$51,758	\$62,038	119.9
0) Wholesalers	2.20	51	2	53	85	160.4
1) Average Number of Employees	2.20	464	66	530	787	148.5
2) Salaries & Wages	2.20	\$1,913	\$264	\$2,177	\$3,208	147.4
3) Total Sales	2.20	\$22,898	\$5,466	\$28,364	\$46,521	162.5
4) Service Trades	2.20	162	38	200	227	113.5
5) Employees	2.20	437	102	539	575	106.7
6) Payroll	2.20	\$1,091	\$166	\$1,257	\$1,839	106.5
7) Receipts	2.20	\$3,406	\$645	\$4,051	\$5,008	123.6

1/ 1958 U. S. Census

(Rebuttal of Exhibit MTR-2.20)

ECONOMIC & CIVIC CHARACTERISTICS

(Dollar figures for all Items are in Thousands)

Item (1)	Rebuttal of Exh. MTW (2)	MTW (3)	TWR (4)	Col. 3 + Col. 4 (5)	SHE (6)	% SHE of MTW + TWR (7)
8) Occupied Housing Units	2.20	9,910	3,875	13,785	14,577	105.7
9) Postal Receipts	2.20	\$604	\$252	\$856	\$902	105.4
10) Bank & Trust Co. Assets	2.20	\$47,729	\$15,996	\$63,725	\$115,912	181.9
11) Svgs. & Loan Assn. Assets	2.20	\$12,303	\$9,978	\$22,281	\$24,205	108.6
2) Water Customers	2.20	8,670	3,506	12,176	12,655	103.9
3) Light Customers	2.20	11,432	4,597	16,029	22,880	142.7
4) Gas Customers	2.20	7,460	2,400	9,860	17,984	182.4
5) Telephones	2.20	16,322	5,330	21,652	24,297	112.2

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SHE Rebuttal Exhibit--3

(Rebuttal of Exhibits MTR-2.20 - 2.60)

COUNTY ECONOMIC CHARACTERISTICS

(Dollar figures in thousands - except when indicated as "actual")

Line No.	Item (1)	Rebuttal of Exhs. MTR- (2)	MTW County (3)	SHE County (4)	% SHE Co. of MTW Co. (5)
1)	Population of County	2.20	75,215	86,484	114.9
2)	Bonded Indebtedness	2.20	\$ 1,615	\$ 980	60.7
3)	Assessed Value	2.20	\$244,437	\$301,101	123.2
4)	Value added by Manufacture	2.46	\$ 94,401	\$104,567	110.8
5)	Total Employment	2.31	28,618	33,807	118.1
6)	Manufacturing Employment	2.32	10,491	12,689	121.0
7)	Industrial Empl.(avg.15 mos)	2.33	7,000	7,447	106.4
8)	Industrial Payroll	2.45	\$ 46,590 ^{1/}	\$ 58,290 ^{1/}	127.3
9)	No. of Mfg. Establishments	2.34	179	237	132.4
10)	No. of Service Establish.	2.35	342	436	127.5
11)	No. of Retail Establishments	2.36	921	937	101.7
12)	No. of Wholesale Establish.	2.37	103	124	120.0
13)	No. of Firms with Head Office & Branch	2.38	48	56	116.7
14)	Effective Buying Income	2.40	\$137,173	\$169,466	123.5
15)	Effective Income (Per Capita - actual)	2.40	\$ 1,812	\$ 1,950	107.6
16)	Effective Income (Per Household - actual)	2.40	\$ 6,235	\$ 6,468	103.7
17)	Income - Con. Spend. Unit (SMM - actual)	2.40	\$ 5,554	\$ 6,009	108.2
18)	Cash Income Per Household (After taxes)	2.40	\$ 5,703	\$ 6,036	105.8
19)	Retail Sales (SMM - 1960)	2.42	\$ 73,080	\$104,459	142.9
20)	Wholesale Trade	2.43	\$ 38,634	\$ 64,071	165.8
21)	Sales of Selected Serv. ^{2/}	2.44	\$ 5,729	\$ 8,302	144.9
22)	Total Value Farm Prod. Sold	2.53	\$ 18,715	\$ 18,618	99.5
23)	Average per Farm (actual)	2.53	\$ 6,505	\$ 7,230	111.1
24)	Value of Farm Lands & Buildings (actual)	2.53	\$ 20,237	\$ 22,671	112.0
25)	Population Forecast Criteria	2.60	Excellent	Excellent	100.0

^{1/} 1958 U. S. Census

^{2/} Corrected figures

COMPUTATION OF PASSENGER RETENTION BY NORTH CENTRAL AND COMPUTATION OF AVERAGE PASSENGER JOURNEY
IF SERVICE TO MANITOWOC IS PROVIDED THROUGH THE SHEBOYGAN COUNTY AIRPORT

Pair	On-line O&D		Manitowoc		MTW-SHE		Total Passengers Retained	On-line RPM's	
	Local	Connecting	Local	Connecting	Total Distance	3/ Connecting		Inter-station Mi. from SHE- MTW Pairs. 4/	Total Miles
Manitowoc and:									
Illiac-Reed City	10	275	11		11		9	251	2,259
cago	960	148	21		21		3,115	124	385,260
eland	10	425	7		7		9	401	3,509
roit	70	320	10		10		63	296	18,548
uth-Superior	40	307	10		10		36	325	11,700
anaba	20	134	23		23		15	152	2,280
en Bay	100	34	91		91		9	52	468
n Mt.-Kingsford	20	155	20		20		16	173	2,768
amazoo	20	278	11		11		18	254	4,572
sing	20	255	12		12		18	231	4,158
waukee	400	81	38		38		880	57	50,150
neapolis-St. Paul	230	345	9		9		219	363	79,497
na	-	680	4		4		10	713	7,130
ertown, S.D.	10	695	6		6		9	556	5,004
gau	30	538	24		24		23	149	3,427
consin Rapida-		131							
evens Point		104	30		30		7	122	854
Total	1,950	3,130	-		-		4,156	-	582,794
	5130	5080					624		
							5,080		

Relationship of Passengers Retained to total Passengers 87.7%.
Average Passenger Journey, Manitowoc passengers at Sheboygan 130.8 miles.

From Exhibit BER-10.

Average journey of connecting passengers at CHI (688), MKE (386), MSP (582), and OMA (435), adjusted to include NOR's passengers and miles, plus the distance between Manitowoc and the connecting point.

From Exhibit M-TR 4.42, average distance between Manitowoc and Sheboygan Airport, 34 miles, less distance to Manitowoc Airport, 18 miles.

For southbound passengers, 24 miles less minus (81 miles from MTW to MKE minus 57 miles SHE to MKE), for northbound passengers, 18 miles (52 miles SHE-GRB less 34 miles MTW-GRB).

ESTIMATED FINANCIAL EFFECT ON NORTH CENTRAL IF SERVICE TO MANITOWOC
AND SHEBOYGAN IS PROVIDED THROUGH SEPARATE AIRPORTS
Future Year Ended December 31, 1962

	Sheboygan Forecast (a)	Manitowoc Forecast (b)	Net Effect On North Central + or (-) (c)
<u>AIRCRAFT OPERATING DATA</u>			
Scheduled Stops a/	1,460	1,460	2,920
Scheduled Plane Miles a/	7,300	11,680	18,980
Performance Factor b/	98.4	98.4	-
Aircraft Stops c/	1,437	1,437	2,874
Revenue Plane Miles c/	7,183	11,493	18,676
Aircraft Hours d/	235	259	494
<u>TRAFFIC DATA</u>			
Passengers e/	9,160	5,998	15,158
Revenue Passenger-Miles e/	1,120,165	886,504	2,006,669
Passenger Ton-Miles (at 190 pounds)	106,416	84,218	190,634
Other Commercial Ton-Miles f/	9,822	53,073	62,895
Mail Ton-Miles g/	3,501	4,174	7,675
Total Ton-Miles	119,739	141,465	261,204
<u>AIRCRAFT OPERATING EXPENSE</u>			
Flying Operations and Maintenance h/	\$22,345	\$24,612	\$46,957
Depreciation and Rentals-Flight Equipment i/	1,626	1,797	3,423
Total Aircraft Operating Ex- pense	\$23,971	\$26,409	\$50,380
<u>SERVICING EXPENSE</u>			
Local j/	\$60,305	\$28,357	\$88,662
Regional and System k/	24,224	28,645	52,869
Total Servicing Expense	\$84,529	\$57,002	\$141,531
Total Operating Expense	\$108,500	\$83,411	\$191,911
<u>COMMERCIAL REVENUE</u>			
Passenger l/	\$100,591	\$79,593	\$180,184
Other Commercial Revenue m/	5,590	28,772	34,362
Mail n/	2,613	3,115	5,728
Total Commercial Revenue	\$108,794	\$111,480	\$220,274
Operating Gain or (Breakeven Need)	\$ 294	\$ 28,069	\$ 28,363
Return on Investment n/	642	715	1,357
Total (Cost) or Gain	(\$ 348)	\$ 27,354	\$ 27,006

a/ In Column (a) assumes 2 daily round trips between Appleton and Milwaukee via Sheboygan resulting in 5 miles circuitry; in Column (b) assumes 2 daily round trips between Green Bay and Milwaukee via Manitowoc resulting in 8 miles circuitry; all flights with DC-3 aircraft.

b/ System experience for the 12 months ended 12-31-61.

c/ Scheduled aircraft stops and revenue plane miles times the performance factor.

d/ Derived by dividing flying operations and maintenance expense by the system experienced cost per hour, \$95.17 for DC-3 aircraft for the 12 months ended 9-31-61.

e/ In Column (a), see Exhibit BER-R-2, revenue passenger miles have been adjusted for self-diversion as shown in Appendix A to Brief of Bureau of Economic Regulation; in Column (b) 1961 Manitowoc originated passengers doubled to account for deplaned passengers, plus growth for 1 year at 7%. Revenue passenger-miles are computed by multiplying passengers by the average passenger journey at Manitowoc of 147.8 miles, see Exhibit BER-10.

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Exhibit BER-R-5
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ESTIMATED FINANCIAL EFFECT ON NORTH CENTRAL IF SERVICE TO MANITOWOC
AND SHEBOYGAN IS PROVIDED THROUGH SEPARATE AIRPORTS

Future Year Ended December 31, 1962

Footnotes: (Cont'd)

f/ In Column (a), other commercial ton-miles are computed at 9.23% of passenger ton-miles, system experience for the 12 months ended 12-31-61. In Column (b) express and freight tons for the year ended 12-31-61 multiplied by the historic average growth rates of 9.4% for express tons and 18.4% for freight tons at Manitowoc and multiplied by the system average hauls of 153.6 miles for express tons and 222.9 miles for freight tons for the 12 months ended 12-31-61. Excess baggage ton-miles are computed at 0.79% of passenger ton-miles - system experience for the 12 months ended 12-31-61.

g/ In Column (a), mail ton-miles computed at 3.29% of passenger ton-miles, system experience for the 12 months ended 12-31-61. In Column (b) mail ton-miles for the year ended 12-31-61 multiplied by the historic average growth rate of 7.1% at Manitowoc times the system average haul of 180.6 miles for the 12 months ended 12-31-61.

h/ Computed at \$13.03 per stop and 50.41¢ per mile for DC-3 aircraft - see Exhibit BER-3.

i/ In Column (a) the new system rate for depreciation and rentals of DC-3 aircraft is computed as follows:

	Depreciation and Rental	Hours	Average Per Hour
System as of 12-31-61	\$563,827	81,301	xxx
This addition	xxx	235	xxx
New System	\$563,827	81,536	\$6.92

In Column (b) the system average rate per hour (\$6.94) for the 12 months ended 12-31-61 is used.

j/ In Column (a) computed from equation $Y = \$16,343 + (\$50.30 \times \text{tons originated})$; 874 additional tons are estimated. In Column (b), 1961 reported station expense of \$24,635 + $(\$50.30 \times 74 \text{ estimated additional tons originated})$.

k/ In Column (a): 119,739 revenue ton-miles at a total cost of \$24,224 at Sheboygan.

Item (1)	System Year Ended 9-30-61 (2)	Additional Traffic and Cost Data (3)	New System (4)
1. Revenue ton-miles	19,730,000	119,739	19,849,739
2. Revenue tons originated (including passengers at 190 pounds)	106,985	874	107,859
3. Revenue aircraft departures.	185,026	1,437	186,463
4. Tons originated per departure.	.5782	xxx	.5784
5. Average Haul (miles).	184	xxx	184
6. Haul-Density Index (Items 1x4x5 for Col. 4)(000).	xxx	xxx	2,112,520
7. In Col. 2, - computed expense of system (From Col. 9 of BER-5). In Col. 4, the expense of system including additional data, computed from equation at bottom of page 3, BER-5.	\$4,900,000	xxx	\$4,924,209
8. Cost of new service (Item 7, Col. 4 less Item 7, Col. 2).	xxx	\$24,209	xxx
9. Cost of service adjusted to carrier's own expense level. (Item 8, Col. 3 x carrier's cost level of 100.06% from BER-5, Col. 10).	xxx	\$24,224	xxx

l/ In Column (a), computed at 8.98¢ per revenue passenger mile - system experience at Manitowoc for the 12 months ended 12-31-61. In Column (b) computed by multiplying passengers by the average passenger fare of \$13.27 at Manitowoc, see Exhibit BER-10.

m/ In Column (a), computed at 56.91¢ per other commercial ton-mile, and 74.64¢ per mail ton-mile - system average for the 12 months ended 12-31-61. In Column (b) computed at 52.18¢ per express ton-mile, 54.45¢ per freight ton-mile, 93.31¢ per excess baggage ton-mile, and 74.64¢ per mail ton-mile - system average for the

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Exhibit HER-R-5
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ESTIMATED FINANCIAL EFFECT ON NORTH CENTRAL IF SERVICE TO MANITOWOC
AND SHEBOYGAN IS PROVIDED THROUGH SEPARATE AIRPORTS

Future Year Ended December 31, 1962

Footnotes: (Cont'd)

n/ Computed at 5.5% on debt and 21.35% on equity plus an allowance for taxes, based on carrier's debt-equity position at 12-31-61.

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ESTIMATED FINANCIAL EFFECT ON NORTH CENTRAL IF SERVICE TO MANITOWOC IS
PROVIDED THROUGH THE SHEBOYGAN COUNTY AIRPORT
Future Year Ended December 31, 1962

AIRCRAFT OPERATING DATA	Manitowoc Forecast (a)	Additional Rev. and Expense at Sheboygan 2 R.T. (b)	Net Effect On North Central / or (-) (c)
Scheduled Stops a/	1,460	1,460	-
Scheduled Plane Miles a/	11,680	2,920	(8,760)
Performance Factor b/	98.4	98.4	-
Aircraft Stops c/	1,437	1,437	-
Revenue Plane Miles c/	11,493	2,873	(8,620)
Aircraft Hours d/	259	212	(47)
TRAFFIC DATA			
Passengers e/	5,998	14,420	8,422
Revenue Passenger-Miles e/	886,504	1,808,173	921,669
Passenger Ton-Miles (at 190 pounds)	84,218	171,777	87,649
Other Commercial Ton-Miles f/	53,073	56,299	3,256
Mail Ton-Miles g/	4,174	7,162	2,988
Total Ton-Miles	141,465	235,238	93,773
AIRCRAFT OPERATING EXPENSE			
Flying Operations and Main- tenance h/	\$24,612	\$20,172	(\$4,440)
Depreciation and Rentals- Flight Equipment i/	1,797	1,467	(330)
Total Aircraft Operating Expense	\$26,409	\$21,639	(\$4,770)
SERVICING EXPENSE			
Local j/	\$28,357	\$79,419	\$51,062
Regional and System k/	28,645	46,141	17,496
Total Servicing Expense	\$57,002	\$125,560	\$68,558
Total Operating Ex- pense	\$83,411	\$147,199	\$63,788
COMMERCIAL REVENUE			
Passenger l/	\$79,593	\$162,374	\$82,781
Other Commercial Revenue m/	28,772	30,760	1,988
Mail n/	3,115	5,346	2,231
Total Commercial Revenue	\$111,480	\$198,480	\$87,000
Operating Gain or (Break- even Need)	\$28,069	\$51,281	\$23,212
Return on Investment o/	715	571	(144)
Total Cost	\$27,354	\$50,710	\$23,356

a/ In Column (a) see Exhibit BER-R-5, in Column (b) assumes 2 daily round trips between Green Bay and Milwaukee via Sheboygan, using DC-3 equipment, resulting in 2 miles of circuitry per flight.

b/ System experience for the 12 months ended 12-31-61.

c/ Scheduled aircraft stops and miles times the performance factor.

**ESTIMATED FINANCIAL EFFECT ON NORTH CENTRAL IF SERVICE TO MANITOWOC IS
PROVIDED THROUGH THE SHEBOYGAN COUNTY AIRPORT**
Future Year Ended December 31, 1962

Footnotes: (Cont'd)

d/ Derived by dividing flying operations and maintenance expense by system experienced cost per hour, \$95.17 for DC-3 aircraft for the 12 months ended 9-30-62.

e/ In Column (a) see Exhibit BER-R-5, in Column (b) forecast Sheboygan passengers (See Exhibit BER-R-2), plus 87.7% of forecast Manitowoc passengers, see Exhibit BER-R-3.

f/ In Column (a) see Exhibit BER-R-5, in Column (b) computed at 9.23% of the passenger ton-miles - system experience for the 12 months ended 12-31-61.

g/ In Column (a) see Exhibit BER-R-5, in Column (b) computed at 3.29% of passenger ton-miles - system experience for the 12 months ended 12-31-61.

h/ Computed at \$13.03 per stop and 50.41¢ per mile for DC-3 aircraft - see Exhibit BER-3.

i/ In Column (a) see Exhibit BER-R-5; in Column (b) the new system rate for depreciation and rental of DC-3 aircraft is computed as follows:

	Depreciation and Rental	Hours	Average Per Hour
System as of 12-31-61	\$563,827	81,301	xx
This addition	xxx	212	xx
New System	\$563,827	81,513	\$6.92

j/ Computed from equation $Y = \$16,343 \div (\$50.30 \times \text{tons originated})$; 1,254 additional tons are estimated.

k/ In Column (a) see Exhibit BER-R-5; in Column (b) 235,238 revenue ton-miles at a total cost of \$46,141.

Item (1)	System Yr. Ended 9-30-61 (2)	Additional Traffic and Cost Data (3)	New System (4)
1. Revenue ton-miles.	19,730,000	235,238	19,965,238
2. Revenue tons originated (including passengers at 190 pounds).	106,985	1,254	108,239
3. Revenue aircraft departures.	185,026	1,437	186,463
4. Tons originated per departure.	.5782	xxx	.5805
5. Average Haul (miles).	184	xxx	34
6. Haul-Density Index (Items 1x4x5 for Col. 4)(000).	xxx	xxx	2,132.527
7. In Col. 2, - computed expense of system (From Col. 9 of BER-5). In Col. 4, the expense of system including additional data, computed from equation at bottom of page 3, BER-5.	4,900,000	xxx	4,946,11
8. Cost of new service (Item 7, Col. 4 less Item 7, Col. 2).	xxx	\$46,113	xxx
9. Cost of service adjusted to carrier's own expense level. (Item 8, Col. 3 x carrier's cost level of 100.06% from BER-5, Col. 10).	xxx	\$46,141	xxx

ESTIMATED FINANCIAL EFFECT ON NORTH CENTRAL IF SERVICE TO MANITOWOC IS
PROVIDED THROUGH THE SHEBOYGAN COUNTY AIRPORT

Future Year Ended December 31, 1962

Footnotes: (Cont'd)

l/ Computed at 8.98¢ per revenue passenger mile - system experience at Manitowoc for 12 months ended 12-31-61.

m/ Computed at 56.91¢ per other commercial ton-mile, and 74.64¢ per mail ton-mile - system average for the 12 months ended 12-31-61.

n/ Computed at 5.5% on debt and 21.35% on equity, plus an allowance for taxes based on the carriers debt-equity position at 12-31-61.

ESTIMATED FINANCIAL EFFECT ON NORTH CENTRAL IF SHEBOYGAN AND MANITOWOC
ARE SERVED THROUGH AN AREA AIRPORT

Future Year Ended December 31, 1962		
	DC-3 (a)	CV-340 (b)
<u>AIRCRAFT OPERATING DATA</u>		
Scheduled Stops a/	2,190	2,190
Scheduled Plane Miles a/	6,570	6,570
Performance Factor b/	98.4	98.4
Aircraft Stops c/	2,155	2,155
Revenue Plane Miles c/	6,465	6,465
Aircraft Hours d/	329	401
<u>TRAFFIC DATA</u>		
Passengers e/	19,137	20,637
Revenue Passenger-Miles e/	2,617,279	2,828,179
Passenger Ton-Miles (at 190 pounds)	248,642	268,677
Other Commercial Ton-Miles f/	66,838	66,997
Mail Ton-Miles f/	9,033	9,033
Total Ton-Miles	324,513	344,707
<u>AIRCRAFT OPERATING EXPENSE</u>		
Flying Operations and Maintenance g/	\$31,339	\$87,526
Depreciation and Rentals-Flight Equipment h/	2,283	9,816
Total Aircraft Operating Expense	\$33,622	\$97,342
<u>SERVICING EXPENSE</u>		
Local i/	\$98,885	\$102,507
Regional and System j/	62,059	65,858
Total Servicing Expense	\$160,944	\$168,365
Total Operating Expense	\$194,566	\$265,707
<u>COMMERCIAL REVENUE</u>		
Passenger k/	\$235,032	\$253,970
Other Commercial Revenue l/	36,742	36,802
Mail l/	6,742	6,742
Total Commercial Revenue	\$278,516	\$297,514
Operating Gain or (Breakeven Need)	\$83,950	\$31,807
Return on Investment m/	\$ 917	\$9,743
Total Cost	\$83,033	\$22,064

a/ In Column (a) assumes 3 daily round trips with DC-3 equipment in Column (b) assumes 3 daily round trips with Convair equipment, all flights between Green Bay and Milwaukee via Area Airport, resulting in approximately 3 miles circuitry per flight.

b/ System experience for the 12 months ended 12-31-61.

c/ Scheduled aircraft stops and miles times the performance factor.

d/ Derived by dividing flying operations and maintenance expense by system experienced per hour, \$95.17 for DC-3 aircraft for the 12 months ended 9-30-61 and \$218.36 for CV-340 aircraft for the 12 months ended 9-30-61.

e/ In Column (a) Sheboygan passengers from Exhibit BER-R-2, plus 1962 Manitowoc Forecast passengers increased by 26% to reflect additional frequencies; in Column (b) Sheboygan's passengers from Exhibit BER-R-2, plus 1962 Manitowoc passengers increased by 51% to reflect additional frequencies and the change from DC-3 to Convair aircraft. Revenue Passenger-Miles or the product of passengers times average passenger journey of 140.6 miles from Area Airport, adjusted to reflect self-diversion.

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Exhibit BER-R.
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ESTIMATED FINANCIAL EFFECT ON NORTH CENTRAL IF SHEBOYGAN AND MANITOWOC
ARE SERVED THROUGH AN AREA AIRPORT

Future Year Ended December 31, 1962

Footnotes: (Cont'd)

f/ Forecast Manitowoc ton-miles from Exhibit BER-R-5, plus Sheboygan portion at 9.25% of passenger ton-miles for other commercial ton-miles, and 3.29% for mail ton-miles.

g/ Computed at \$13.03 per stop and 54.41¢ per mile for DC-3 aircraft - see Exh. BER-3, and at \$38.44 per stop and 72.51¢ per mile for CV-340 aircraft - see Exh. BER-4.

h/ The new system rate for depreciation and rental of aircraft is computed as follows:

	Depreciation and Rental		Hours		Average Per Hour	
	DC-3	CV-340	DC-3	CV-340	DC-3	CV-340
System as of 12-31-61	\$563,827	\$461,620	81,301	18,855	xxx	xxx
This addition						
New System	0	0	329	401	xxx	xxx
	\$563,827	\$461,620	81,630	19,256	\$6.91	\$23.97

i/ Computed from equation $Y = \$16,343 \div (\$50.30 \times \text{tons originated})$; 1,641 additional tons are estimated.

j/ In Column (a) 324,513 revenue ton-miles at a total cost of \$62,059.

Item (1)	System Yr. Ended 9-30-61 (2)	Additional Traffic and Cost Data (3)	New System (4)
1. Revenue ton-miles.	19,730,000	324,513	20,054,12
2. Revenue tons originated (including passengers at 190 pounds).	106,985	1,641	108,626
3. Revenue aircraft departures.	185,026	2,155	187,181
4. Tons originated per departure.	.5782	xxx	1.603
5. Average Haul (miles).	184	xxx	195
6. Haul-Density Index (Items 1x4x5 for Col. 4)(000).	xxx	xxx	2,152,512
7. In Col. 2, -computed expense of system (From Col. 9 of BER-5). In Col. 4, the expense of system including additional data, computed from equation at bottom of page 3, BER-5.	\$4,900,000	xxx	\$4,962,000
8. Cost of new service (Item 7, Col. 4 less Item 7, Col. 2).	xxx	\$62,022	xxx
9. Cost of service adjusted to carrier's own expense level. (Item 8, Col. 3 x carrier's cost level of 100.06% from BER-5, Col. 10).	xxx	\$62,059	xxx

k/ Computed at 8.98¢ per revenue passenger mile - system experience for 12 months ended 12-31-61 at Manitowoc.

l/ Computed at 56.91¢ per other commercial ton-mile, and 74.64¢ per mail ton-mile - system average for the 12 months ended 12-31-61.

m/ Computed at 5.5% on debt and 21.35% on equity plus an allowance for taxes based on the carrier's debt-equity position at 12-31-61.

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Exhibit BER-A
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TESTIMONY OF LAWRENCE D. WASKO

I am Lawrence D. Wasko. I am an Air Transport Examiner with the Local Service Section of the Routes and Agreements Division, Bureau of Economic Regulation, Civil Aeronautics Board where I have been employed for approximately three and one-half years. I am a graduate of Harpur College, State University of New York, at which I majored in economics and accounting.

I would like to comment on the exhibits submitted by the parties in this case in general, and in particular indicate the concepts underlying the Bureau's exhibits.

As to the Manitowoc exhibits: The thrust of the Manitowoc case is that the forecast of passengers at Sheboygan, as computed by the city of Sheboygan, the Bureau of Economic Regulation, ^{and} by the Examiner in the previous proceeding, ~~and adopted by the Board in determining that the public convenience and necessity requires service for Sheboygan, is~~ too high. To show this, Manitowoc compares the Sheboygan forecasts with its own traffic generating experience, and then concludes that Sheboygan could not generate any more passengers than Manitowoc does per given index unit. It should not be stated categorically, as Manitowoc does state, that Sheboygan would exactly approximate the Manitowoc enplanements for a given index. Sheboygan is not Manitowoc and any attempt at an exact correlation between the two cities as shown in Exhibit MTR-1.42 is an arithmetic exercise which does not validly show Sheboygan's traffic potential.

The preferable method of forecasting for this city is one which will attribute to it the average passenger potential for cities of comparable size and service levels based on accumulated historic experience. This the Bureau has done through the use of the Passenger Generating Index method of forecasting traffic and revenue passenger miles. Unless it can be demonstrated that the city does not fit within these average concepts,

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TESTIMONY OF LAWRENCE D. WASKO

that it has such unusual characteristics as to make its traffic potential unique, then all that can be expected of Sheboygan is that it will generate the usual volume of passengers for a city of its size, geographic location and economy.

UNITED STATES OF AMERICA
CIVIL AERONAUTICS BOARD
WASHINGTON, D. C.

SERVICE TO THE SHEBOYGAN AND MANITOWOC, WIS., AREA

(Proceedings on Remand)

DOCKET 9767

In the matter of proceedings on remand for the purpose of determining whether the public convenience and necessity require, and whether the Board should order the alteration, amendment, or modification of the certificate of public convenience and necessity of North Central Airlines under section 401(g) of the Federal Aviation Act of 1958, as amended, so as (a) to designate Manitowoc and Sheboygan, Wisconsin, as a single point on Segments 1 or 2 and/or 10 of North Central's Route 86; and (b) to authorize service to aforesaid cities through a single designated airport.

INITIAL DECISION OF EDWARD T. STODOLA, HEARING EXAMINER

Served:

NOV 20 1962

Upon:

Alexander Hopp, Corporation Counsel, Sheboygan County, County Court House, Sheboygan, Wisconsin, for Sheboygan County, Wisconsin.

A. L. Wheeler, 1522 Wisconsin Avenue, N. W., Washington 7, D. C., for North Central Airlines, Inc.

Donald J. Bero, Corporation Counsel, Manitowoc County, 826-A South 8th Street, Manitowoc, Wisconsin, for Manitowoc County, the City of Manitowoc, and the City of Two Rivers, Wisconsin.

John W. Reynolds, Attorney General, State Capitol, Madison, Wisconsin, for the State of Wisconsin.

Howard G. Feldman, Civil Aeronautics Board, Washington 25, D. C., for the Bureau of Economic Regulation of the Civil Aeronautics Board.

This decision shall become final 10 days after the date of service shown above and shall become effective upon the issuance of a Board order pursuant to Rule 28 of the Rules of Practice, unless within such 10-day period exceptions thereto are filed by one or more of the parties with the Docket Section, Civil Aeronautics Board, Washington, D. C., and served upon all other parties. If exceptions are filed within the period prescribed, briefs to the Board may be filed and served on all other parties within a further period of 20 days.

UNITED STATES OF AMERICA
CIVIL AERONAUTICS BOARD
WASHINGTON, D. C.

SERVICE TO THE SHEBOYGAN AND MANITOWOC, WIS., AREA

(Proceedings on Remand)

DOCKET 9767

INITIAL DECISION OF EDWARD T. STODOLA, HEARING EXAMINER

It is found and concluded that the public convenience and necessity require that the certificate of North Central Airlines for its Route 86 be amended to authorize service to Sheboygan, Wisconsin, through the Sheboygan County Airport, as an intermediate point on Segment 2 of said route, for an indefinite period. It is further found and concluded that the public convenience and necessity require that Manitowoc and Sheboygan, Wisconsin, be designated as a hyphenated point on said Segment 2 and that the Manitowoc area be served through the Sheboygan County Airport.

Appearances:

Alexander Hoop for Sheboygan County, Wisconsin.

A. L. Wheeler and Marcia Harrison for North Central Airlines, Inc.

Donald J. Bero for Manitowoc County, City of Manitowoc, and the City of Two Rivers, Wisconsin.

John W. Reynolds and John H. Bowers for the State of Wisconsin.

Howard G. Feldman and Lawrence D. Wasko for the Bureau of Economic Regulation, Civil Aeronautics Board.

Introduction

The original proceedings under Docket 9767 involved an application of Sheboygan County, Wisconsin, under section 401 of the Federal Aviation Act of 1958, as amended, proposing the authorization of air transportation of persons, property, and mail at the Sheboygan County, Wisconsin, Airport on

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either a permanent or temporary basis. In an Initial Decision served on July 17, 1961, the undersigned Examiner found that North Central Airlines should be required to provide service at the Sheboygan County Airport, Sheboygan County, Wisconsin, for an indefinite period of time. The issue of service for Sheboygan through an airport other than its own was not involved in the original proceedings in Docket 9767.^{1/}

By Order E-18024, served on February 15, 1962, the Board remanded the proceedings in Docket 9767 to the Examiner for the purpose of determining whether the public convenience and necessity require, and whether the Board should order, the alteration, amendment, or modification of North Central's certificate of public convenience and necessity so as (a) to designate Sheboygan and Manitowoc, Wis., as a single point on Segments 1, 2, and/or 10 of its Route 86; and (b) to authorize service through a single designated airport.

A careful reading of the Board's opinion on remand reveals that the Board could conceivably take three courses of action after the conclusion of the remanded proceeding: (1) the certification of Sheboygan as a separate point on North Central's Route 86; (2) the designation of Sheboygan and Manitowoc as a single certificated point leaving the choice of airport to the managerial discretion of North Central under the Board's established airport procedures; and (3) the designation of Sheboygan and Manitowoc, Wisconsin, as a single certificated or hyphenated point to be served at the direction of the Board

^{1/} Reference is hereby made to the Initial Decision under Docket 9767 of the undersigned Examiner served on July 17, 1961, which Initial Decision is hereby made a part hereof.

through either the Sheboygan County Airport or the Manitowoc County Airport.^{2/}

The Issues

Based upon the provisions of Order E-18024, dated February 14, 1962, remanding this proceeding to the Examiner, the following statement of issues was established for the remanded proceedings:

A. In addition to the issues of the original proceeding in Docket 9767, do the public convenience and necessity require, and should the Examiner and the Board order, the alteration, amendment, or modification of North Central's certificate of public convenience and necessity under section 401(g) of the Federal Aviation Act of 1958, as amended, so as (a) to designate Sheboygan and Manitowoc, Wisconsin, as a single point on Segments 1 or 2 and/or 10 of North Central's Route 86; and (b) to authorize service through a single designated airport?

B. If the public convenience and necessity require that Sheboygan and Manitowoc, Wisconsin, be served through a single airport to be designated by the Board, would the Sheboygan County Airport or the Manitowoc County Airport better serve the public need for service to Sheboygan-Manitowoc as a single certificated point?

Since the original proceedings in Docket 9767 were opened on remand by the Board, the record made in the original proceedings in Docket 9767 was made

^{2/} By Amendment No. 5 to Part 302 of the Board's Procedural Regulations, effective February 1, 1962, the Board delegated to its Hearing Examiners, under Reorganization Plan No. 3 of 1961, the Board's functions of making agency decisions and prescribed appropriate procedures for discretionary review by the Board of Examiners' decisions made pursuant to such delegation. However, the Board's amended rules of practice state that the procedural changes made by the foregoing amendment shall not be effective with respect to any proceeding in which the hearing has actually commenced on or before February 1, 1962, the effective date of the amendment (14 C.F.R. 302.41). While it may be argued that the "hearing" in this remanded matter took place after the effective date of Amendment No. 5, at least one party contended during the public hearings that this remanded case was but a continuation of the original proceedings to which the Board's delegation of functions did not apply. Under the circumstances, Amendment No. 5 to Part 302 of the Board's Procedural Regulations will not be made applicable to the disposition of this remanded proceeding.

a part of the whole record to be adduced in the proceedings on remand. In addition to North Central Airlines; the City of Manitowoc and Manitowoc County, Wisconsin; the City of Sheboygan and Sheboygan County, Wisconsin; and the Bureau of Economic Regulation of the Board, the State of Wisconsin and the City of Two Rivers, Wisconsin, were also made parties to the remanded proceedings.

In remanding the original proceedings under Docket 9767 to the Examiner, the Board made no finding that the public convenience and necessity require that Sheboygan should be certificated for scheduled airline service. While it may be argued that the Board's order on remand inferentially made such a finding since it could not have otherwise reached the regional airport question, the fact remains that the Board's conclusions with respect to the probable desirability or need of a regional airport for the Sheboygan-Manitowoc area are only suggestive or tentative in nature. Under the circumstances, it would appear to be the law of this reopened case that the issue of the public convenience and necessity with respect to Sheboygan still awaits disposition. As indicated in the above statement of issues, it was so held when those issues were formulated.

In addition to evidence as to whether the public convenience and necessity require service to both Manitowoc-Two Rivers and Sheboygan as separately certificated points or whether the foregoing cities should be served at the direction of the Board through either the Sheboygan County Airport or the Manitowoc County Airport, evidence was also received as to whether an entirely new air carrier airport might be feasible as a common airport site for the Manitowoc-Two Rivers and Sheboygan communities. In connection with the site for a possible new airport, Bureau Counsel submitted for the record an engineering analysis of the existing Manitowoc and Sheboygan County Airports as well as a similar analysis

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of a possible new air carrier airport midway between Manitowoc and Sheboygan which might jointly serve these two cities in Wisconsin.

Existing Service and Available Airports

In the North Central Case, decided on December 19, 1946,^{3/} Wisconsin Central Airlines (now North Central) was given an authorization to serve a number of Wisconsin cities over its Route 86, including both the Cities of Manitowoc and Sheboygan, for a temporary period of three years. In order to secure service over Route 86, each community was expected to provide at least a Class 3 airport. As of the year 1946, neither Manitowoc nor Sheboygan had an airport adequate for scheduled air service. It was not until the year 1950 that the City of Manitowoc was able to obtain the necessary local civic action, prepare plans for an airport facility, and secure the necessary federal and state aid commitments.

Following an adverse decision by an Examiner but upon assurances that an airport improvement program could be completed at a relatively early date, the Board on December 13, 1951, in the Wisconsin Central Renewal Case^{4/} ruled in favor of the City of Manitowoc and authorized scheduled airline service to the city on a temporary basis. The Class 3 airport for Manitowoc was dedicated on October 4, 1953, and scheduled air service began at this city on November 1, 1953. Recently the airport at Manitowoc has been taken over from the municipality by Manitowoc County and it is now known as the Manitowoc County Airport.

^{3/} 7 C.A.B. 639. Prior to the North Central Case, one of the first cases presented to the Board after the enactment of the Civil Aeronautics Act of 1938 involved a proposal, among others, for air service to Sheboygan-Manitowoc by Northwest Airlines. The Board then rejected the proposal Northwest Air, Duluth-Twin Cities Operation, 1 C.A.A. 573 (1940).

^{4/} 14 C.A.B. 982

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Except for overflights due to lack of revenue load or bad weather, North Central has continuously served Manitowoc since November 1, 1953. On November 25, 1955, in the North Central Air, Permanent Certificate For Route 86 proceeding,^{5/} Manitowoc, along with most of the other points on North Central's system, was certificated for a period of unlimited duration.

At the present time, North Central provides Manitowoc, Wisconsin, with two round trips a day, serving it on Segment 2 of Route 86 between Milwaukee and Green Bay, Wisconsin. During the year 1961, North Central completed 93.4 per cent of its flights at Manitowoc. North Central's performance at Manitowoc for the same year was 97.32 per cent and the airline's system performance for the same period of time was 98.4 per cent. While North Central's performance at Milwaukee was somewhat below its system performance, nevertheless, the service at Manitowoc was basically good and reliable. Although bad weather accounted for some overflights by North Central for Manitowoc during the year 1961, the principal reason that the carrier overflowed the city during that time was the lack of revenue load. It will hereinafter be found that Sheboygan excels Manitowoc in total traffic potential and for this reason it can be expected that a new service at Sheboygan would show a somewhat higher performance factor than the existing service at Manitowoc.

The City of Sheboygan submitted no evidence in support of the renewal of Wisconsin Central's authority to serve Sheboygan in the Wisconsin Central Renew Case, supra. This city was eliminated as a certificated stop on the carrier's system in that proceeding.

^{5/} 22 C A B. 375.

The Sheboygan County Airport was first used by the flying public on November 14, 1960. This airport became adequate for scheduled airline service on or about June 1, 1961. As in the case of the airport in Manitowoc, the Sheboygan County Airport is presently adequate for DC-3 type aircraft. And as already noted, Sheboygan's most recent application for scheduled air service was favorably ruled upon by the Examiner in an Initial Decision rendered on July 17, 1961; but the matter was remanded to the Examiner by the Board through Order E-18024, served February 15, 1961, for the primary purpose of determining whether Manitowoc and Sheboygan can be served through a single designated airport in the Manitowoc-Sheboygan area.

The Manitowoc County Airport is located between the Cities of Manitowoc and Two Rivers, Wisconsin. This airport is about 3 miles and 12 minutes' driving time by car from the center of Manitowoc, and about 7 miles and 15 minutes' driving time from the center of Two Rivers. The Sheboygan County Airport is about 6 miles west of the City of Sheboygan. The driving time from the center of Sheboygan to its airport is also about 15 minutes. Sheboygan is located about 28 road miles south of Manitowoc. The distance between the Manitowoc and Sheboygan airports is about 30 road miles. There is no form of public transportation between either community and the other community's airport. Nor is there any prospect of the establishment of such service.

Since the enactment of the Federal Airport Act of 1946, as amended,^{6/} there have been invested approximately \$256,612 in federal monies in the airport at Manitowoc. State and local investments in the same airport during the same general

^{6/} Act of May 3, 1946, 60 Stat. 170, as amended by Act of April 17, 1948, 62 Stat. 173, and Act of June 29, 1948, 62 Stat. 1111.

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period amount to about \$264,713. Of the foregoing federal funds, an amount of \$120,000 was provided Manitowoc under a grant agreement dated June 29, 1960. The latter funds have been irrevocably committed to Manitowoc and in part these funds, in addition to somewhat larger state and local appropriations, are being currently used for improvements of the airport at that city. These improvements are primarily designed to help general aviation activities at the Manitowoc airport. In the case of the airport at Sheboygan, the comparable total figures are approximately \$289,133 in federal funds and about \$289,133 in state and local funds.

Either the Manitowoc County Airport or the Sheboygan County Airport can be readily improved to accommodate larger aircraft of the Convair type now in use by North Central on some of its routes. Although virtually prohibitive because of its cost and its duplication of recently constructed facilities at Manitowoc and Sheboygan, it would be possible to build a new or third site for an airport for Manitowoc and Sheboygan midway between the latter cities.

As shown in exhibits of record prepared by the Federal Aviation Agency, the estimated costs of improving the Manitowoc County Airport, the Sheboygan County Airport, or the development of a new airport midway between the two cities range as follows, depending upon the type of aircraft to be accommodated:

Manitowoc	\$ 288,000	to	\$ 554,000
Sheboygan	183,600	to	432,350
New site	1,227,350	to	1,658,900

The above data is based upon planning criteria used in the development of the National Airport Plan. In the case of the Manitowoc County Airport, the FAA estimates that it would cost about \$288,000 to develop this airport in accordance

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with current FAA standards for DC-3 service; the airport development costs to meet FAA standards for Convair-340 service at Manitowoc would be about \$484,500; and similar airport improvement costs at Manitowoc to meet FAA standards for Convair-440 service would be about \$554,000. In the case of the Sheboygan County Airport, the airport improvements to meet current FAA standards for DC-3 service would cost about \$183,600; similar improvements recommended by the FAA for Convair-340 service at Sheboygan would cost about \$406,900; and airport improvements at Sheboygan recommended by the FAA for Convair-440 service would be about \$432,350. In the case of a new or third site, the total airport development cost would be about \$1,227,350 for DC-3 service; the comparable costs for a new or third site to meet the recommended standards for Convair-340 service would be about \$1,558,600; and the comparable airport development costs for a new or third site according to current standards of the FAA for Convair-440 service would be about \$1,658,900.

The record makes clear that it would be economically unwise to construct a third airport as a possible regional facility for air service to the Manitowoc-Sheboygan area. No party to this remanded proceeding urges a new or third site for service as regional airport in this area.

Both the airports at Manitowoc and Sheboygan have some limited general aviation activities. The Manitowoc Airport has a fixed base operator engaged primarily in providing private charter operations, flying instructions, and servicing of aircraft. The airport has 12 locally based aircraft. The airport at Sheboygan likewise has a fixed base operator which conducts a flight school, private charter flights, and the servicing of aircraft. This airport has 32 locally based aircraft. The larger number of locally based aircraft at Sheboygan

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is in part due to the fact that this city does not have scheduled air service. The general aviation activities at the two airports are insufficient to meet normal maintenance activities expense at the respective sites, much less the revenues necessary to cover debt service or capital charges.

As provided by section 114.01, Wisconsin Statutes, the Wisconsin State Aeronautics Commission has planned a comprehensive state system of airports which in the Commission's judgment is adequate to provide for the aeronautical needs of the people of all parts of the state. The system includes all of the airports in the National Airport Plan as prepared by the Federal Aviation Agency and at least one airport in each county of Wisconsin as required by statute. Both the airport at Manitowoc and the airport at Sheboygan were initially developed as general aviation type airports. As already noted, Manitowoc has had scheduled airline service since the year 1953, while Sheboygan re-applied for scheduled airline service in 1958, after having been eliminated as a certificated point in the year 1951. Sheboygan's general aviation airport, which was completed in the year 1960, is adequate for scheduled airline service with DC-3 aircraft. Airport improvements recommended by the FAA for Convair service would cost somewhat less at the Sheboygan airport than at the Manitowoc airport.

Manitowoc is located approximately 86 road miles north of the airport at Milwaukee and this distance involves about 2 hours and 20 minutes' driving time by car. The comparable figures for Sheboygan are a distance of approximately 57 road miles and driving time of about 1 hour and 45 minutes. Manitowoc is located about 47 miles or about 1 hour's driving time from the airport at Green Bay, while Sheboygan is located about 76 miles and 1 hour and 50 minutes' driving time from the latter airport.

Manitowoc and Sheboygan are served by the same main highway systems, the same through bus system, and by the Chicago and Northwestern Railway Company. However, both the bus and railroad services for these two cities have deteriorated in these years. Only three daily round trip bus schedules now serve Manitowoc and Sheboygan on the one hand, and Milwaukee and Chicago, on the other. Passenger service by rail for Manitowoc and Sheboygan has been reduced to two daily round trips in 1962, or about half the passenger rail schedules available in the year 1955.

Neither the bus nor rail schedules for Manitowoc or Sheboygan travelers destined to Milwaukee or Chicago are coordinated with the airline schedules. Furthermore, passengers traveling beyond Milwaukee or Chicago are required to utilize additional surface transportation from bus or rail depots to the airports at Milwaukee or Chicago.

The record establishes that the highway system serving both Manitowoc-Two Rivers and Sheboygan will see no material improvement before the completion of the Interstate Highway System for this area in about the year 1972. However, the completion of the Milwaukee Expressway System in the year 1969 or 1970 will permit automobile traffic from the north enroute to the airport in south Milwaukee to by-pass the City of Milwaukee. This highway and street improvement project should cut almost a half hour in the driving time between Manitowoc-Two Rivers and Sheboygan on the one hand, and the Milwaukee airport, on the other.

Economic and Traffic Considerations

The record is replete with the customary economic, population, and other statistical data which, taken together, provide a rather complete picture of

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the Manitowoc-Two Rivers and Sheboygan communities. Since Manitowoc had been certificated on the basis of findings of economic strength and potential growth in earlier proceedings^{7/} and similar findings have been made with respect to Sheboygan in the first phase of this case,^{8/} this part of the examination of the basic economic facts will be limited to refining and updating the relevant business and related data.

Manitowoc and Sheboygan are both progressive, medium-sized industrial communities located on historic travel routes, serving also as commercial and retail centers and county seats for extensive farming areas to their west. Most economic indices show Sheboygan to be slightly larger than Manitowoc-Two Rivers, although the latter two cities appear to be growing somewhat faster than Sheboygan.

Thus, the 1960 population of Manitowoc County was 75,215 persons and its 1950 population was 67,159 persons. Sheboygan County's 1960 population was 86,184 persons and its 1950 population was 80,631 persons. Manitowoc-Two Rivers had a combined population in 1960 of 44,668 persons and a combined population of 38,841 persons in 1950. Sheboygan had a population of 45,747 persons in 1960 and 42,365 persons in 1950. If the populations of several nearby communities such as Plymouth with a 1960 population of 5,128, Sheboygan Falls with a 1960 population of 4,061, and Kohler Village with a 1960 population of 1,524 persons, are added to the population of Sheboygan, the latter urbanized area is a little larger than Manitowoc-Two Rivers.

^{7/} North Central Case, 7 C.A.B. 639, 663-669 (1946); Wisconsin Central Renewal Case, 14 C.A.B. 982, 984-985, 1003-1019 (1951).

^{8/} Service to Sheboygan County, Wisconsin, Docket 9767, Initial Decision served July 17, 1961.

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The record made in the earlier phase of this proceeding was somewhat erroneous with respect to two economic indices for Sheboygan relative to other cities in Wisconsin. The record on remand shows Sheboygan to rank tenth among the cities in the state in population and volume of retail sales rather than ninth and third, respectively, as shown in the earlier record.^{9/} Nevertheless, Sheboygan County outranks Manitowoc County in most major indices of economic vitality, such as total population, total employment, total manufacturing employment, total number of retail and wholesale establishments, volumes of retail and wholesale trade, and amount of effective buying income. Similarly, the City of Sheboygan outranks the combined Manitowoc-Two Rivers cities in a number of major economic indices, including, among others, the total number of persons employed, volumes of retail sales, and effective buying income.

Except that by most business indices Sheboygan is slightly stronger than Manitowoc-Two Rivers and that the latter cities are growing somewhat faster in terms of such indicators as industrial employment and population, the record fails to reveal any significant difference in the economic vitality of the two regions. The important controversy of record relates to the air traffic potential of these two respective urban areas.

During the calendar year 1961, North Central enplaned 2,794 passengers and deplaned 2,830 passengers at Manitowoc, for a total traffic generation of 5,624 passengers during that year. The comparable figures for the calendar year 1960 were 3,150 enplaned passengers and 3,042 deplaned passengers or a total traffic of 6,192 passengers, and the comparable data for the calendar year 1959 were

^{9/} It now appears that in the earlier record Sheboygan intended to show that it ranked third in general merchandise sales among the cities of the state but through error claimed a ranking of third in retail sales.

3,219 enplaned passengers and 3,147 deplaned passengers or a total traffic generation for the latter year of 6,366 passengers. Manitowoc attributes the small decline in traffic after 1959 to the business recession which began in 1960.

Manitowoc ranks fairly well in traffic generating among the cities receiving local service. Thus, for the calendar year 1961, Manitowoc ranked 294th among the 479 cities in the country receiving only local service. Among the 74 cities served by North Central during 1961, Manitowoc ranked forty-ninth.

When more selective data are used, comparing Manitowoc with communities of generally similar character and service, and excluding both the smaller cities of the country and the larger communities that receive more service, the rankings for the year 1961 show Manitowoc in a relatively better light:

-- Among the 125 U.S. cities receiving two daily round trips, Manitowoc ranks 55th.

--Among the 59 local service only cities (over 10,000 population) receiving two daily round trips, Manitowoc ranks 30th.

--Among the 16 North Central cities receiving two daily round trips, Manitowoc ranks 6th.

Manitowoc is an excellent generator of air freight and air express traffic. There were 47.27 tons of air express and 47.56 tons of air freight enplaned in Manitowoc in the year 1960. The comparable figures for the year 1961 were 50.4 tons of air express and 67.15 tons of air freight. Manitowoc also originated 8.19 tons of air mail in 1960 and 10.79 tons in 1961.^{10/} This city's generate cargo traffic not only exceeds that of all of the weaker traffic points of

^{10/} The deplaned tonnage in each category of air cargo was less than half of that enplaned for each of the years 1960 and 1961.

North Central in Wisconsin, but it also exceeds that of cities such as Appleton; Rhinelander, and Stevens Point/Wisconsin Rapids. Each of the latter points generates more passenger traffic than Manitowoc.

We next come to the critical question of the amount of traffic to be generated at the alternative airports in issue in this remanded proceeding. There is no real or significant dispute with respect to North Central's expenses or unit revenue; there is likewise no serious issue with regard to the capital costs that will be involved in improving the airports at either Manitowoc or Sheboygan. The important problem is how many passengers would use which airport and the relative impact of the forecast traffic on North Central's total revenues, and, ultimately, upon the subsidy bill for this carrier.

The following is a summary of a number of annual passengers estimated by each of the parties to this proceeding if service to Manitowoc and Sheboygan were to be provided through the separate existing airports at each of these points:

<u>Parties</u>	<u>Manitowoc</u>	<u>Sheboygan</u>
North Central	5738	2573
Manitowoc	5624	4921
Sheboygan	--	8000
Bureau Counsel	5988	9160

Sheboygan made no forecast for passengers to be generated at the Manitowoc airport if service is to be provided to both cities. Sheboygan's forecast for its own airport is based on surveys of passenger travel made in the earlier phase of this proceeding. Manitowoc's forecast for its own airport is based on Manitowoc's origin and destination traffic for the year 1961.

On the ground that Sheboygan is more conveniently located to the medium traffic hub of Milwaukee than Manitowoc, Manitowoc adjusted Sheboygan's forecast passengers for a predicted "drainage" of Sheboygan passengers to the Milwaukee and Chicago airports by surface travel. North Central projected a "proximity" adjustment to the basic forecast figures for both Manitowoc and Sheboygan.

With respect to Manitowoc's forecast of Sheboygan's traffic, Manitowoc assumed a traffic potential of 12,000 annual passengers and reduced that by 60 per cent to account for "drainage" to the Milwaukee and Chicago airports.^{11/} For Sheboygan, North Central used the forecast of 7,228 annual passengers it relied upon in the earlier phase of this proceeding but the carrier estimated proximity losses of 4,655 passengers annually at Sheboygan, leaving a net figure of 2,573 passengers to be generated at the Sheboygan airport. For Manitowoc, North Central estimated a total of 9,697 passengers, proximity losses of 3,959 passengers, and a net of 5,738 passengers annually at the Manitowoc airport.

In calculating the Manitowoc traffic forecast on the assumption that service would be provided through separate airports, Bureau Counsel used the 1961 Manitowoc origination traffic; doubled that traffic to account for deplaned passengers; and added a projected growth of seven per cent for one year. In the case of Bureau Counsel's Sheboygan forecast if service were to be provided through both airports, Bureau Counsel's forecast traffic relies in part upon

^{11/} It appears from Manitowoc's methodology that rather than 4,921 annual passengers for Sheboygan it actually is forecasting 4,800 passengers.

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surveys made of the use of airline service by Sheboygan residents and assumes an adjustment for self diversion. Findings were made on the methodology and results of Bureau Counsel's calculations in the Initial Decision rendered on July 17, 1961. As in the case of the original proceeding with respect to Sheboygan's application for service, Bureau Counsel developed a Passenger Generating Index (PGI) to show Sheboygan's traffic potential in this remanded case.^{12/}

Manitowoc and Bureau Counsel each estimated the probable traffic if services for Manitowoc and Sheboygan were to be consolidated at the Sheboygan airport.^{13/} Manitowoc estimates 6,721 passengers at the Sheboygan airport if services for the two cities are provided through the latter airport. Of this projected total only 1,800 passengers would be Manitowoc passengers. Manitowoc made no estimate

^{12/} Briefly, the PGI is a technique designed to provide a means of estimating the traffic generating capacity of a city which has never had scheduled air service. This index is an effort to correlate traffic generating experience to four characteristics of local service cities: population, schedule departures, quality index, and weighted average distance traveled to and from principal communities of interest. The numbers describing these four characteristics are multiplied, with the product being the PGI of a city. In making its forecast in this remanded proceeding for Sheboygan, Bureau Counsel made an adjustment in the quality index figure. This revision was necessitated by an error in the information contained in Sales Management, Survey of Buying Power, July 1960, upon which the quality index figure was computed in the earlier proceeding. Moreover, in re-computing Sheboygan's passenger generating index in this remanded proceeding, Bureau Counsel used the average weighted distance of 130.3 miles used in the earlier proceeding. However, if an account were to be taken of the shift in North Central's services for Midway Airport to O'Hare Airport in Chicago, the weighted average distance would be reduced to 123.9 miles. Under this reduction in the weighted average distance used as one of the four pertinent factors in the PGI, Bureau Counsel's forecast passengers for Sheboygan would have been 8,920 rather than 9,160.

^{13/} North Central did not make such a forecast. The Wisconsin State Aeronautics Commission made no forecasts of traffic for either city whether to be served separately or on a consolidated basis.

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of total traffic at Manitowoc if Sheboygan were to be served through the airport at Manitowoc. Bureau Counsel estimates that in addition to the 9,160 passenger projected for Sheboygan, 5,260 out of the 5,998 or 87.7 per cent of estimated Manitowoc passengers would use the airport at Sheboygan if the latter were designated as the area airport. Without adjustments, Bureau Counsel thus forecasts about 14,420 passengers annually at Sheboygan if Manitowoc were to be served through the Sheboygan airport.

In estimating the financial effect on North Central if service to Manitowoc and Sheboygan were to be provided through separate airports at two round trips daily with DC-3 type aircraft, Bureau Counsel calculates that for the future year ended December 31, 1962, North Central would earn a profit of \$27,351 at Manitowoc and suffer a minimal loss of \$348 at Sheboygan.^{14/} In effect then, North Central would have no greater subsidy requirements if both points were served separately than if Manitowoc alone received service. This alone would appear to justify new service at Sheboygan because of the benefit that would result to the traveling public. If service to Manitowoc and Sheboygan were provided through the Sheboygan County Airport, Bureau Counsel estimates that the projected traffic forecast for the two points of 14,220 passengers would result in an operating gain of \$50,710 for North Central or \$23,356 more than the gain estimated for a separate service at Manitowoc by the carrier.

North Central estimates that if the present service were retained at Manitowoc, the carrier would earn \$19,618 more annually by serving the area

^{14/} The less favorable operating results estimated for Sheboygan in this remanded proceeding than in the earlier phase of this case (a \$348 loss versus an operating profit of \$8,413) is due to recent increases in operating expenses of North Central and to increased costs of servicing the projected Sheboygan traffic at other stations on the carrier's system.

through Manitowoc rather than through Sheboygan. Manitowoc forecasts annual profits to North Central of \$22,053 if service is retained at its airport as against an annual loss of \$19,886 to the carrier if service to the Manitowoc-Sheboygan area is transferred to the airport at Sheboygan. Bureau Counsel makes no distinction in its forecast of earnings between an area airport at Manitowoc and the present service at this city on the ground that service through the Manitowoc airport is what the area is now receiving.

North Central disputes Bureau Counsel's estimates that the carrier would earn \$23,356 more by serving the area through Sheboygan rather than Manitowoc. Although North Central used the same technique in forecasting passengers as it did in the earlier proceeding and submitted a forecast of 7,288 passengers, the carrier made various adjustments to its forecast of Sheboygan because of the city's proximity to Milwaukee and because of alleged self diversion of Sheboygan traffic already carried by the carrier from the boarding points at Milwaukee and Chicago. As to the proximity or so-called "drainage" reduction, the carrier conceded at the hearing that these factors were pure judgment estimates and were not based on experience or measurable statistical data. With respect to self diversion, the best index of self diversion of record is the actual amount of Sheboygan originating traffic carried by the carrier in 1960 between Milwaukee and Chicago, which, as found in the earlier phase of this case, amounts to 985 passengers.

There is no question that there is likely to be some drainage of Sheboygan passengers to the boarding points of Milwaukee and Chicago if service is authorized at Sheboygan, but it is doubtful whether this element of drainage can be used as a means of mathematically specifying the number of passengers out of the total

potential air passengers who choose to use an airport other than the local airport. To compute relative drainage in any reasonably quantitative way it would appear to be necessary to start with a community's total potential air passengers and not the amount of passengers it would generate at its own airport alone. Neither Manitowoc nor any other of the parties has attempted to forecast total traffic, inclusive of drainage to nearby airports, as distinct from an actual traffic forecast at the airport for the point in question.

Thus, in estimating the probable number of air passengers at its airport in the earlier phase of this proceeding, Sheboygan projected only that traffic which this city anticipated would use the airport at Sheboygan and not all of the traffic which would have had its actual origination and destination at Sheboygan. In other words, in calculating its total air traffic potential, Sheboygan allowed for traffic presently originating at the Manitowoc airport and traffic which would not use the proposed service at Sheboygan because of the proximity of Milwaukee and Chicago. Nevertheless, Manitowoc has subtracted drainage from a figure which is already less than the total air traffic potential of Sheboygan.

Manitowoc produced studies to show that approximately 45 per cent of its air travelers to and from its city used airports other than the Manitowoc airport. Actually these studies show that a considerable number of the business travelers for the Hamilton Manufacturing Company of the City of Two Rivers and the Mirro Aluminum Company of the City of Manitowoc use surface transportation to and from Milwaukee to Chicago to connect with airline flights in spite of

the existing airline service at Manitowoc.^{15/} Manitowoc related this experience to its total origination and destination traffic. Manitowoc then assumed that since it experienced a 45 per cent loss of traffic due to drainage, Sheboygan's drainage loss would be greater or approximately 60 per cent of its estimated total air traffic potential because Sheboygan is nearer both Milwaukee and Chicago. However, Sheboygan's alleged drainage loss is only an estimate on the part of Manitowoc and this estimate is not supported by probative evidence.

Of the Manitowoc-Two Rivers traffic lost to away points through surface travel, the amount enplaning or deplaning at Chicago constitutes the largest number. However, to assume that Sheboygan's drainage to Chicago would be proportionately much greater than that of Manitowoc because Sheboygan, though 140 miles from Chicago, is approximately 28 miles closer than Manitowoc, finds no substantial support in the record. From the data available, it cannot be found that a reduction of approximately 28 miles will have an effect on Sheboygan's drainage losses anything like the near one-third increase shown by Manitowoc's forecast or the approximate 100 per cent increase it would have over Manitowoc's experience. Further, included within the Manitowoc drainage loss figures are the passengers lost to Green Bay. Sheboygan, because of its geographical location 75 miles south of Green Bay, should not experience any measurable loss of traffic to Green Bay. While Sheboygan would suffer some drainage loss of passengers to Milwaukee and Chicago, that loss cannot be

^{15/} Assuming the number of air travelers for the Hamilton Manufacturing Company and the Mirro Aluminum Company using surface means to connect with airline flights at Milwaukee and Chicago to be correct, a re-calculation of Manitowoc's data shows that this drainage amounts to 32 per cent rather than the alleged 45 per cent of the total Manitowoc origination and destination traffic.

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recast with any degree of accuracy. The precise amount of probable drainage loss after the installation of service at a new point would depend upon a number of imponderables, including, among other things, the frequency of available schedules, the ultimate destination of the traveler, and the various considerations that compete for the traveler's mode of travel on a particular journey. Since the traffic survey figures upon which Bureau Counsel's forecast for Sheboygan are based already reflect availability of service at Milwaukee and Chicago, it would be obviously improper to reduce the amount of traffic estimated for Sheboygan by an arbitrary allowance for loss through drainage.

Although North Central does not agree with Bureau Counsel's traffic forecasts in the remanded proceeding, the carrier did not attack the methodology used by Bureau Counsel in arriving at his results. The only real challenge to Bureau Counsel's forecast techniques comes from Manitowoc. It was perhaps inevitable that Manitowoc, which in the last calendar year emplaned and deplaned less than 6,000 passengers, would seek to minimize the traffic potential of Sheboygan in an effort to retain air service at its own airport should the selection of a single airport to serve both points become necessary. Manitowoc's basic attack is on the use by Bureau Counsel of the Passenger Generating Index. According to Manitowoc, the PGI technique is unreliable because it is mechanical in operation, statistically unacceptable, and basically misleading in its results.

Prior to the year 1956 there were no developed statistical tools providing an index to the traffic generating qualities of smaller communities which had never received air service. In that year the Bureau of Economic Regulation of the Board developed a study known as the Passenger Generating Index or the PGI. The PGI is specifically designed to forecast traffic at cities of 60,000

persons or less in population which had theretofore received no air service and were proposed to be served by one local service carrier offering no more than four round trips per day. To forecast traffic for communities of this nature is obviously less than an exact science.

At most, the PGI provides an overall measure against which various judgment factors involving the particular facts of a community seeking service for the first time are tested. The PGI was not intended to be used in a purely mechanical fashion but rather as a general correlative criterion (supplemented with other statistical data) of the traffic generating capabilities of a city which has never had scheduled air service. Compared to the various forecasting methods utilized by parties to this remanded proceeding, the PGI manifests a comprehensive approach to a most difficult task. As already noted, it is the theory of the PGI that four basic factors--population, scheduled departures, quality index (which is an economic measure of the purchasing ability of a city or its propensity to spend), and weighted average distance traveled to principal communities of interest--are the major forces which affect a community's traffic generation. This composite index is but a measure of the central tendency of certain characteristics of communities in generating air traffic.

Significantly, Bureau Counsel's use of the Passenger Generating Index in the first phase of this proceeding arrived at a total of 8,680 origination and destination passengers for Sheboygan, whereas Sheboygan forecast 8,000 passengers and North Central estimated 7,228 passengers by the use of techniques other than the PGI. Two recent Board proceedings demonstrate the practical value of the PGI as well as how the results of this index had to be qualified by the application

certain judgment factors. In the Service to Martinsburg, W. Va., Case, Docket 9900, Order E-17360, decided August 24, 1961, Bureau Counsel forecast 2,654 annual passengers. Martinsburg is presently generating 3.33 daily passengers or an annual total of 2,430 passengers.^{16/} This experience is 9.22 per cent under Bureau Counsel's forecast. And in Intermediate Points on Ozark, Docket 9403 et al., Order E-17623, decided October 24, 1961, Bureau Counsel forecast that 5,200 annual origination and destination passengers would use the service of Ozark Air Lines at Mt. Vernon, Illinois. This point is presently generating 7.8 daily passengers or an annual total of 5,702 passengers.^{17/} This result exceeds Bureau Counsel's estimate by 9.65 per cent.

As in the case of any standardized forecasting technique based upon economic data and averages, adjustments must be made in those instances where obvious abnormalities take the point out of the average situation. Thus, in the Martinsburg proceeding, supra, an adjustment was required because the city received nine railway trips daily to and from Washington with a daily round trip coach fare of \$4.35 and an average trip duration of about one hour and 30 minutes. Under those circumstances, Bureau Counsel subtracted from its forecast for Martinsburg the Washington, D. C. local traffic which in that instance amounted to over 27 per cent of the total probable market.

No comparable situation exists at Sheboygan which necessitates any downward revision of forecast passengers. Indeed, as already found herein, surface transportation facilities for Sheboygan and Manitowoc have deteriorated during the past decade. Neither Sheboygan nor Manitowoc has ready access to the airport at Milwaukee because of the lack of frequent rail and bus schedules coordinated with airline departures and because of the further fact that any

^{16/} Form 41 Report, Schedule T-4, Lake Central Airlines, Inc.

^{17/} Form 41 Report, Schedule T-4, Ozark Air Lines, Inc.

trip by automobile to the airport at Milwaukee must be made through the City of Milwaukee in order to reach the airport. Even if some downward adjustment were made in the total traffic forecast for Sheboygan, this city alone would still likely generate more traffic than the 5,624 passengers generated at Manitowoc in the year 1961. If service to both Manitowoc and Sheboygan were to be provided through the airport at Sheboygan, then Bureau Counsel's estimate of 14,420 passengers annually at such an area airport is likewise not unreasonable. Again, a downward adjustment to the latter total forecast passengers would have to be substantial to invalidate the estimate. The record does not portend any adjustment of such serious proportions.

Regional Airport Considerations

While hindsight is always easier than foresight, it is now quite apparent that greater efforts should have been made on the federal level to promote an area or regional airport for Manitowoc and Sheboygan Counties before either of these points was initially certificated for air service in the year 1946.

As far back as the year 1944, Manitowoc made an effort to get together with Sheboygan to plan for and build an airport between the two cities, either as a joint two-city or two-county venture. Not much interest in such a joint undertaking was stimulated in Sheboygan at that time so that early in 1946 Manitowoc decided to go it alone and to promote the expansion and improvement of its own municipal airport.

In May 1957, more than a year before Sheboygan filed its application for scheduled service upon which hearings were held in the earlier phase of this proceeding, Sheboygan made inquiries of the Wisconsin State Aeronautics Commission

regarding the feasibility of a regional airport to serve Sheboygan, Manitowoc, and Calumet Counties in Wisconsin. The Director of the Commission discouraged such a joint undertaking on the ground that no single airport, irrespective of its location, could be developed which would satisfactorily serve the air transportation needs of either the tri-county interests of Sheboygan, Manitowoc, and Calumet Counties or the bi-county interests of Sheboygan and Manitowoc Counties. It was the Director's further judgment that Manitowoc and Sheboygan were too widely separated to be considered as one metropolitan area for the purposes of a regional airport. The Director was in part guided by a state statute which provides that the State Airport Plan shall include at least one airport in each county of the state.

Whatever may have been the merits of the earlier efforts of Manitowoc in behalf of an area airport, the number of needed airports to serve the State of Wisconsin had been carefully studied over a period of years by the Civil Aeronautics Administration, the predecessor of the FAA, and the Wisconsin State Aeronautics Commission. As a result of these studies, the National Airport Plan provides for airports adequate for scheduled airline service at both Manitowoc and Sheboygan and an airport suitable for industrial use in southern Calumet County. The Wisconsin State Airport Plan established similar provisions.

It was perhaps inevitable and in most cases necessary in the administration of the Federal Airport Act providing for federal aid in the development of public airports in the United States that strong recognition would be given to state and local initiatives in the planning and construction of airports necessary to regional and national requirements. Moreover, the overall planning for public airports under the National Airport Plan and the confluent state airport

projects provided for the construction of both general aviation airports and airports for air carrier service. Further, the development of a publicly-owned airport in the various states requires the sponsorship of such a facility by a unit or units of local government.^{18/}

Although recommendations regarding appropriate locations for air carrier airports are the primary function of the Federal Aviation Agency, the certification of communities for airline service is wholly the function of the Civil Aeronautics Board. However, the measuring of the aeronautical potentials of communities for the purpose of determining the general aviation needs of communities seeking federal aid in the construction of general aviation airports rests with the Federal Aviation Agency. With respect to airports built under the Federal Airport Act, the Federal Government provides for 50 per cent of the costs of construction and improvement and the state and local sponsoring government units provide the remaining 50 per cent, whether the airport facility be classed as a general aviation facility or as an air-carrier type airport.

Since half of the costs of projected airport sites built under the federal aid program are borne by the Federal Government, it would appear that the FAA, as the planner of prospective airport projects, and the CAB, as the agency responsible for the certification of airline service, should have long been coordinating their respective functions to avoid an unnecessary or uneconomical

^{18/} For example, the Sheboygan County Airport, which is classified as a general aviation facility, was sponsored by Sheboygan County. As in similar situations elsewhere in Wisconsin, this facility upon completion was found to be adequate for air carrier service with DC-3 type aircraft. The construction of this airport was accomplished with federal, state, and the sponsor's funds. The State of Wisconsin approved the airport project for Sheboygan County on September 13, 1958. Prior to this approval, Sheboygan and its neighboring municipalities filed an application on May 10, 1958, for scheduled air service with the Civil Aeronautics Board.

multiplicity of airports for scheduled airline service. The regulation of civil aviation is primarily a federal function; scheduled airline service is almost wholly an interstate activity; and authority of the Congress to regulate commerce among the several states with respect to civil aviation has been delegated to the Civil Aeronautics Board. However, it has not been until very recently that the Federal Aviation Agency and the Board have jointly taken affirmative action to promote regional airports in areas that may not justify separate adjacent facilities for scheduled airline service.^{19/}

The problem before us now is not what mistakes may have been made in the past, but what is best for the future. We are faced with the accomplished fact of two airports only about 30 road miles apart, both of which are adequate for scheduled airline service, and one located at a community that does not wish to part with its scheduled air service and the other recently constructed by a neighboring city which wishes to acquire scheduled air service. Unless both communities are to be served, the central issue of this proceeding poses a choice between two difficult alternatives.

While the order remanding this matter for further hearings set forth no specific standards for the disposition of the regional airport issue, the Board, in Order E-18533, dated June 29, 1962, which instituted the North Central Area Airport Investigation, Docket 13743, stressed four fundamental factors or

^{19/} Joint Statement of Policy of N. E. Halaby, Administrator, Federal Aviation Agency and Alan S. Boyd, Chairman, Civil Aeronautics Board, May 2, 1962. This statement stated in part as follows: "The Federal Aviation Agency and the Civil Aeronautics Board agree that the use of a single airport serving adjacent communities, where such action may result in a saving both to the Federal Government and the locality served, as well as improving the air service to the area, should be an increasingly important factor in considering applications for federal funds for airport construction purposes and applications for certificated airline service."

considerations in deciding whether two or more adjacent communities should be served through a regional airport. These guidelines or standards for decision are: airport accessibility; airport capabilities; cost; and traffic, including the frequency of service and the direction of the traffic flow. Each of the foregoing considerations is presently analyzed.

The factor of airport accessibility should not deter the consolidation of air services for Manitowoc and Sheboygan at one or the other of the two existing air carrier airports in this area. Here are two cities each with populations under 50,000 persons located approximately 28 miles apart and within less than 45 minutes' driving time of each other's airport.

While public transportation facilities between Manitowoc and Sheboygan do not permit convenient connections for Manitowoc residents with North Central's proposed schedules at the Sheboygan airport, private automobile travel makes the respective airports accessible to all points in the Manitowoc-Sheboygan area. To reach either airport from the other city does not entail driving distances or times comparable to that, for example, experienced by Manitowoc or Sheboygan passengers transiting Milwaukee to the Milwaukee airport. Nor are such driving distances or times much different than some airport locations for other points on North Central's system.^{20/} The distance from downtown Manitowoc to the airport at

^{20/} Thus, Manitowoc is approximately 86 miles and two hours and 20 minutes' driving time from the airport at Milwaukee, while Sheboygan is about 57 miles and one hour and 45 minutes from the same airport. O'Hare Airport is 23 miles and 90 minutes' driving time from downtown Chicago. The Willow Run Airport is about 31 miles and an hour's driving time from downtown Detroit. Wisconsin Rapids, Wisconsin, now receives service from North Central at the Stevens Point airport, a distance of about 25 miles and one hour and 30 minutes' driving time. Cadillac, Michigan, is presently served by North Central through the airport at Reed City, Michigan, a distance of about 27 miles and one hour and 15 minutes' driving time. Most of the airports on North Central's system, however, are much closer than the foregoing distances to the points served.

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Sheboygan is approximately 30 miles and 42 minutes' driving time; the distance from downtown Sheboygan to the airport at Manitowoc is about the same. Two Rivers, located north of Manitowoc, is about 36 miles and 55 minutes' driving time from the airport at Sheboygan. Manitowoc-Two Rivers originated passengers can reach the airport at Sheboygan without driving through the city of Sheboygan. If all other considerations involved in this matter were equal, it is evident that distance and driving time are not substantial barriers to the use of either airport as the regional airport site for the Manitowoc-Sheboygan area.

In terms of airport capabilities, the airports at Manitowoc and Sheboygan cannot show any really significant advantages over one another. At the present time neither the Manitowoc nor the Sheboygan airport can accommodate anything larger than DC-3 aircraft, thus precluding scheduled Convair air service. Improvements to the separate airports would cause substantial expenditures of public funds. The Federal Aviation Agency has estimated that it would cost \$554,000 to improve the Manitowoc airport and \$432,350 to improve the Sheboygan airport for Convair-440 service or a total of \$986,350. Of this total, approximately one-half or \$493,175 would be borne by the Federal Government. However, the Federal Aviation Agency announced at the hearing that it would not participate in the improvement of both airports for airline service; therefore, both communities cannot look to the Federal Government for financial assistance in upgrading their respective airports if air service is to be provided to both cities.

Turning next to the impact upon the overall question of subsidy if both communities are served through their own airports, the record shows that North Central's subsidy requirements would not be reduced. For the year ended December 31, 1962, reliable estimates of record show that service at Manitowoc

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would produce a gain of \$27,354 annually to the carrier while service at Sheboygan would show a small loss of \$348 per year. In effect, North Central would have no greater subsidy requirements if both points received separate service than if Manitowoc alone received service. However, the record also shows that if services for the two cities are consolidated at the Sheboygan airport, North Central's operations at Sheboygan would show an annual operating gain of \$50,710 or a reduction in overall subsidy need of over \$23,000. This estimated reduction in subsidy need is premised upon an estimate that the consolidation would benefit substantially all those passengers who would use the separate services.

If service for the two cities were to be consolidated at the Sheboygan airport, Manitowoc-Two Rivers make the contention that loss of service at Manitowoc could result in a real loss to companies such as Mirro Aluminum Company at Manitowoc and Hamilton Manufacturing Company at Two Rivers on the ground that such loss of service would put questions in the minds of customers and dealers about the ability of the companies to provide prompt service through travel of company personnel and cargo shipments. To the extent such a loss might be a "prestige" loss of a city losing its service, it must be noted that Manitowoc would not lose service if its service were consolidated with that of Sheboygan at the Sheboygan airport. Manitowoc would appear as a hyphenated point with Sheboygan on North Central's certificate and the industries of the Manitowoc area could continue to represent that their city has air service. Moreover, the present service of two round trips daily by North Central is not really frequent enough for the personnel of Mirro and Hamilton. Approximately

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45 per cent of the air travel for these two companies is done through airports other than the Manitowoc airport. If the consolidation of the services at Sheboygan warranted three or more daily round trips by North Central, the personnel of Mirro and Hamilton would obviously benefit by the more frequent schedules.

Considerations of traffic pose the problem of a regional airport for Manitowoc and Sheboygan in a somewhat clearer posture. The journey from Manitowoc-Two Rivers to the Sheboygan airport is identical to the onward portion of the trip for the great majority of Manitowoc-Two Rivers passengers, thereby eliminating the inconvenience and cost of any backhaul for such passengers. For example, about 87 per cent of all Manitowoc-Two Rivers passengers who use North Central's service travel to and from Milwaukee or Chicago and destinations beyond. In the case of Sheboygan, its projected traffic data show that about 90 per cent of its air travelers would be moving to and from Milwaukee or Chicago and points beyond the latter cities. Thus, in the case of the southbound Sheboygan passengers, the designation of the Manitowoc airport as the regional airport would create a backhaul problem for those passengers. Under the circumstances, it would be unrealistic to expect a Sheboygan-to-Milwaukee or a Sheboygan-to-Chicago passenger to use service at Manitowoc because such service would substantially lengthen his total travel in addition to costing more in the way of additional fare for the backhaul from Manitowoc. Whether he used a private automobile or public transportation, the Sheboygan passenger would incur the added expense of going to Manitowoc away from the direction of his destinations for most of his air travel. Faced with the foregoing situation, the Sheboygan air traveler would be more apt to use surface transportation, either public or private, to Milwaukee.

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While it is quite clear that the Sheboygan passengers would not use the airport at Manitowoc for the great bulk of their travel if service for the two cities should be consolidated at the Manitowoc airport, the question remains whether the Manitowoc passengers would use North Central's service at the Sheboygan airport if service for the two cities were consolidated at the latter facility. A wide divergence of opinion exists among the parties relative to the number of Manitowoc passengers to be retained if service to Manitowoc is made available through the Sheboygan airport. Manitowoc estimates that 1,800 passengers out of a total of 5,624 passengers or approximately 32 per cent of the total 1961 origination and destination traffic at Manitowoc would use the airport at Sheboygan; North Central estimates a passenger retention at Sheboygan of 31.39 per cent or 1,589 passengers out of a total of 5,080 on-line origination and destination passengers for the year ended June 30, 1961; while Bureau Counsel forecasts a passenger retention of 87.7 per cent or 5,260 passengers out of his 5,998 forecast total Manitowoc passengers.^{21/}

Bureau Counsel estimates that the shifting of airline service from the airport at Manitowoc to the airport at Sheboygan would result in a loss of about 12 per cent of the existing Manitowoc air passenger market. Under this estimate,

^{21/} Manitowoc's future retained passenger figures are computed on the basis of Manitowoc's 1961 origination and destination traffic. North Central has re-computed Bureau Counsel's data and the airline's estimate of retained traffic, as in the case of Manitowoc, does not take into account any growth in the Manitowoc traffic. On the other hand, while Bureau Counsel formulated his retention factor on the basis of on-line origination and destination figures for the year ended June 30, 1961, he took into account normal growth in his computation of retained passengers. Sheboygan made no estimate for passenger retention for Manitowoc in the event services were consolidated at the Sheboygan airport.

about 88 per cent of the passengers who presently use the airport at Manitowoc as their point of origin or destination would continue to use air service at the Sheboygan airport.

Bureau Counsel's computations with regard to passenger retention at Sheboygan assumes continued service on Segment 2 of Route 86 for the consolidated service at the Sheboygan airport. Probable passenger losses on individual on-line traffic segments were determined by the application of a curvilinear relationship between the passengers retained and the total trip length. The application of this formula results in the following axiom: the greater the segment length of a trip, the lesser the impact of passenger loss or drainage at the point of consolidation of service.

Although Bureau Counsel's passenger retention study appears to be a mechanical and nonqualitative approach to a forecasting problem, the resulting estimates of passengers retained by North Central for the traveled segments between Manitowoc and various points on North Central's system appear to be consistent, in the main, with the qualitative factors of backhaul and fare level which normally affect passenger travel habits or preference. This is particularly so in view of the historically dominant southbound nature of the air traffic flow generated from the Manitowoc area, namely to Milwaukee or Chicago and points beyond, and from the fact of Sheboygan's location directly south of Manitowoc enroute to the latter city's principal communities of interest.

In part, Bureau Counsel based his methodology in the construction of the passenger retention factors if service to Manitowoc were to be provided through the airport at Sheboygan upon past competition studies among domestic air

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carriers which, among other things, reflect the effect of distances, between major cities served, on the passenger traffic flow. In addition, various factors were evaluated which were believed to have a bearing on the Manitowoc-Two Rivers passengers' choice of using the airport at Sheboygan or seeking other modes of travel. Among these factors were the following: for most journeys, the trip to the airport at Sheboygan for the Manitowoc-Two Rivers air traveler is an enroute portion of the total trip to the ultimate destination, thereby eliminating any backhaul problem; the airport at Sheboygan is approximately 42 minutes' driving time from downtown Manitowoc and can be reached without driving through Sheboygan as contrasted to Manitowoc's location of approximately 86 miles north of the Milwaukee airport and 170 miles north of O'Hare Field at Chicago; the flight patterns for the consolidated service at Sheboygan would be substantially the same as schedules at Manitowoc; and North Central's fare from Sheboygan to points southward such as Milwaukee or Chicago, and points beyond, would be somewhat lower than the fare from Manitowoc to such points. The conclusions drawn from the foregoing analyses support the reasonableness of Bureau Counsel's retention studies.

While these studies appear to be based principally on one element--i.e., the length of the trip--in reality, the foregoing considerations form the underlying bases of the passenger retention estimates. The application of the relationship between the number of retained passengers to the total air journey's length has the added value of eliminating to the greatest possible extent the almost impossible task of making individual value judgments for the multiplicity of air markets involved in the shifting of the service from the Manitowoc airport to the Sheboygan airport. Moreover, while Bureau Counsel's retention studies

assume a continuation of the present pattern of service, it is reasonable to expect that if Sheboygan becomes an area airport, the chances of the consolidated service supporting an additional round trip flight are substantially greater than if Manitowoc received service through its own airport. If such an upgrading of service should eventuate, it would confirm the validity of Bureau Counsel's estimated passenger retention. The improved service should have a stimulating effect upon the forecast traffic at Sheboygan.

Manitowoc and North Central's estimates of retention rest in large part upon the assumption that it would be more convenient for a Manitowoc passenger to motor down to Milwaukee or Chicago and start his air journey at either of the latter points, rather than to board North Central at Sheboygan. Admittedly, as the distance decreases between the point of origination and either the destination or connecting point, the likelihood increases of the use of surface transportation. However, in using a weighted average distance of about 130 miles in forecasting traffic for Sheboygan, Bureau Counsel in effect makes an allowance for Sheboygan's proximity to its major travel markets on North Central's system.

In estimating the very limited retention of Manitowoc passengers to a consolidated service at the Sheboygan airport both Manitowoc and North Central have disregarded the inherent inconvenience of private transportation to Milwaukee or Chicago as a substitute for air service at Sheboygan. There is no statistical basis for believing that a passenger driving the onward portion of a trip by car would forsake available air transportation at a point only 42 minutes away, particularly if the passenger boarding a plane at Sheboygan represented only a connecting portion of a journey involving a substantial air movement.

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The defects of Manitowoc's and North Central's retention estimates are further compounded by the fact that both parties have assumed that all Manitowoc-Two Rivers passengers physically originate from a central part of Manitowoc. For example, Manitowoc has computed its distances, and therefore its time factors, on the basis of a centrally located point in the city. However, the record shows that the population of the Manitowoc-Two Rivers area is fairly evenly distributed between north, south, and west of the Manitowoc business district. This geographical distribution of the population is significant. In the case of those passengers living to the south of the central point of Manitowoc, the difference between driving to the Manitowoc airport as compared to traveling to the Sheboygan airport may be de minimis. And even as to the passengers living in other portions of the Manitowoc-Two Rivers area, once a motor journey to the airport is commenced, whether by private automobile or taxi, the difference in driving times between the trip to the Manitowoc airport and trips to the airport at Sheboygan is not so substantial as to cause great inconvenience.

It appears reasonable to find from the foregoing that the overwhelming majority of the passengers of the Manitowoc-Two Rivers area will have available a convenient service at the airport at Sheboygan, with the distinct probability of considerable improvement in that service both in terms of equipment and schedule frequency. The location of the Manitowoc airport due north of Sheboygan and the directional flow of most of Sheboygan's traffic to the south make it relatively more inconvenient for the Sheboygan passengers to use the airport at Manitowoc than for the Manitowoc passengers to use the airport at Sheboygan.

Findings of Ultimate Facts and Conclusions

As in the case of other proceedings in which proposed consolidations of service involve the re-designation of existing airport facilities, this case presents close and difficult questions.

The difficulties of decision arise primarily from several obvious facts of record. Manitowoc has had certificated service for nine years; this city has in recent years generated volumes of traffic in excess of the Board's minimum standards for retention of local service;^{22/} and, like other cities in various parts of the country, Manitowoc has suffered a deterioration in public surface transportation to the cities with which it has a strong community of interest.

Indeed, this case is somewhat of an anomaly for both Manitowoc and Sheboygan. Both cities have cooperated with the state and federal authorities in building their respective airports. And at a time when Sheboygan was in a position to receive scheduled service as well as Manitowoc, both cities have been obliged to wage a new contest for air service in terms of an emerging new federal policy of "regional airports". Meanwhile, North Central, the only party that urged the Board to decide Sheboygan's application on the basis of the new "regional airport" policy in the earlier phase of this case, has concluded on remand that neither Sheboygan nor the Manitowoc airport can

^{22/} Of course, the fact that a city achieves the basic standards of the Board's "use it or lose it" policy, i.e., five passengers originated per day, seven passengers per segment flight, does not necessarily mean the flights must stop at that point but rather that the city should have service. Order E-18533, June 29, 1953. As a matter of fact, achievement of the Board's minimum "use it or lose it" criteria has been held not to bar a proposed suspension of service if other considerations indicated that a suspension of service would be in the public interest. Order E-16168, December 21, 1960.

serve the other city and that Manitowoc should be the only point to receive service.

This case is not a truly "regional airport" proceeding because the time for the planning and construction of one centralized regional airport for this area has long since passed. The idea of a new regional airport site equidistant between the two cities has no support in the record. Not only has each party to the proceeding rejected the proposal of a possible third or new site for an airport for Manitowoc and Sheboygan; but the sheer cost of such a new project, duplicating as it would two existing facilities, makes it necessary to dismiss out of hand the proposal of a third or new airport site.

While the idea of a new or third airport site for Manitowoc and Sheboygan is obviously impractical, service through separate airports to these two adjacent points is likewise unrealistic. In spite of the fact that the DC-3 aircraft is fast becoming obsolete, neither city has an airport that can accommodate newer and larger equipment. The Federal Government will not contribute to the improvement of the airports at both cities. Moreover, it has been demonstrated that joint airport facilities for cities located as closely together as Manitowoc and Sheboygan are less expensive to the taxpayers and more desirable for air transport operations.^{23/} Under the circumstances, the problem here resolves itself as to whether the airport at Manitowoc or the airport at Sheboygan would better serve the regional airport requirements of the Manitowoc-Sheboygan area.

^{23/} For findings on the economics of regional airport facilities, see Service to Sheboygan County, Wisconsin, Docket 9767, Initial Decision, July 17, 1961, pp. 16-18.

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Ultimately, the choice of which of the two existing airports should serve as the area facility boils down primarily to an evaluation of several factors: the traffic generating capabilities of these two points; the directional flow of traffic; and the relative convenience/inconvenience of reaching the proposed area airport. To decide the feasibility of designating one of the airports as the area airport, it must be first determined which community will generate the preponderance of the area's traffic. Logically, the greater the traffic is at a particular point, the greater is the potential incidence of inconvenience if the point is served through an airport other than the local facility. Thus, all other things being equal, the community which has the greater traffic generating capabilities should be designated as the area airport. On this account, Sheboygan must be favored over Manitowoc since the record shows that Sheboygan will generate 9,160 passengers annually as compared to Manitowoc's 5,998. Supporting this important factor of traffic generating capability are the further significant factors of the directional flow of the traffic and the overall convenience of one airport over the other.

As already shown, Manitowoc's and Sheboygan's traffic flow is overwhelming southward to Milwaukee or Chicago and points beyond. Therefore, the location of the Sheboygan airport, approximately 30 miles south of Manitowoc, is of critical significance.

If service to the Sheboygan-Manitowoc area were to be provided at Manitowoc alone, there would be no effective service to the city of Sheboygan and all --or certainly substantially all--of the potential Sheboygan air passengers would be inconvenienced by either the necessity of driving to the Milwaukee airport to board an airplane, or they would have to resort to some other form

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of transportation. In effect, the status quo would be maintained: service to Manitowoc and no service at Sheboygan. If, on the other hand, the service for Manitowoc and Sheboygan were consolidated at the Sheboygan airport, a substantial number of Manitowoc passengers, enroute southward to their ultimate destinations, would use the air service at Sheboygan. In addition, the record makes clear that Sheboygan can generate more air traffic on its own than can Manitowoc. Combining Sheboygan's own air traffic potential with the substantial number of users of air service at Manitowoc who are likely to use the service at Sheboygan, should produce enough air traffic to justify three or possibly even four round trips daily by North Central at the Sheboygan airport.

Once the question of a regional airport is settled for the Manitowoc-Sheboygan area, and the contemplated improvements in the airport at Sheboygan are completed, North Central will be able to serve the two cities with its newer and larger Convair equipment. In the long run, this should mean improved service for the Manitowoc-Sheboygan passengers, less cost to the taxpayer through the avoidance of duplicating airport improvements, and more efficient operations for North Central. To the extent the foregoing advantages of a joint airport facility come to pass, the taxpayer will further benefit by a reduction in overall subsidy payments to the carrier. Under the circumstances, it is found that the public convenience and necessity require that the Two Rivers-Manitowoc-Sheboygan area be served through the airport at Sheboygan.^{24/}

Although the findings in the Initial Decision in the original phase of this case forecast a greater net operating gain to North Central if Sheboygan were

^{24/} No evidence has been adduced in the reopened record to disturb the findings made in the Initial Decision issued on July 17, 1961, to the effect that the public convenience and necessity required service at Sheboygan.

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42.

placed on Segment 2 rather than Segment 10^{25/} of Route 86, it was found that Sheboygan should be served on Segment 10^{26/}. The primary justification for this finding was the extremely short hop with its attendant high costs if Sheboygan and Manitowoc were both served on Segment 2. Additionally, the original record showed that greater community of interest existed between Sheboygan and the Minneapolis-St. Paul area than between Sheboygan and Green Bay and points north on Segment 2. Now, however, in the light of the findings here that both Manitowoc and Sheboygan should be served through the same airport, the short hop considerations are no longer present. Thus, the determining factor is which routing would best serve the needs of the area and in this connection, since the Sheboygan airport will be an area airport, the traveling requirements of the entire area must be considered.

As already noted, it has been estimated that the consolidated service at the Sheboygan airport would generate approximately 14,420 passengers a year. If it be assumed that 90 per cent of the hyphenated points' forecast traffic would move southward either to or through Milwaukee or Chicago, then 12,978 annual passengers would move southbound from the Sheboygan airport. These passengers can be served on either Segment 2 or 9 of Route 86. The remaining 10 per cent will move to scattered destinations such as Minneapolis-St. Paul, Green Bay, and other points north of Sheboygan.

^{25/} Pursuant to Order E-18626, July 23, 1962, in the North Central Airlines, Inc., "Use It or Lose It" Investigation, Docket 12127 et al., Segment 10 now is designated Segment 9.

^{26/} Segment 2 runs between the terminal point Chicago, Ill., the intermediate points Milwaukee, Oshkosh, Manitowoc, and Green Bay, Wis., Marinette, Wis.-Menominee, Mich., and Escanaba, Iron Mountain-Kingsford, and Marquette, Mich., and the terminal point Hancock-Houghton, Mich.; and Segment 9 runs between the terminal point Minneapolis-St. Paul, Minn., the intermediate points Eau Claire, Marshfield, and Appleton, Wis., and the terminal point Milwaukee, Wis.

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It is evident that the great majority of the Manitowoc-Sheboygan area passengers would be better served by placing Sheboygan and Manitowoc on Segment 2 instead of Segment 9 of Route 86. For example, a Segment 2 routing will permit a direct service to the south as well as to Green Bay and points north, and at the same time provide a convenient connecting routing to Minneapolis-St. Paul. On the other hand, if Manitowoc-Sheboygan is placed on Segment 9, passengers to Green Bay and points north would be without direct service.

In view of the foregoing and all the facts and considerations of record, it is found and concluded that the public convenience and necessity require that the certificate of North Central Airlines for its Route 86 be amended to authorize service to Sheboygan, Wisconsin, through the Sheboygan County Airport as an intermediate point on Segment 2 of said route for an indefinite period. It is further found and concluded that the public convenience and necessity require that Manitowoc and Sheboygan, Wisconsin, be designated as a hyphenated point on said Segment 2 and that the Manitowoc area be served through the Sheboygan County Airport.

Edward T. Stodola

Edward T. Stodola
Hearing Examiner

November 8, 1962

PROOF OF SERVICE

I hereby certify that on

November 20, 1962

Docket No. 9767

the Document was served
on parties listed below:

[Signature]
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INITIAL DECISION OF EDWARD T. STODOLA, HEARING EXAMINER

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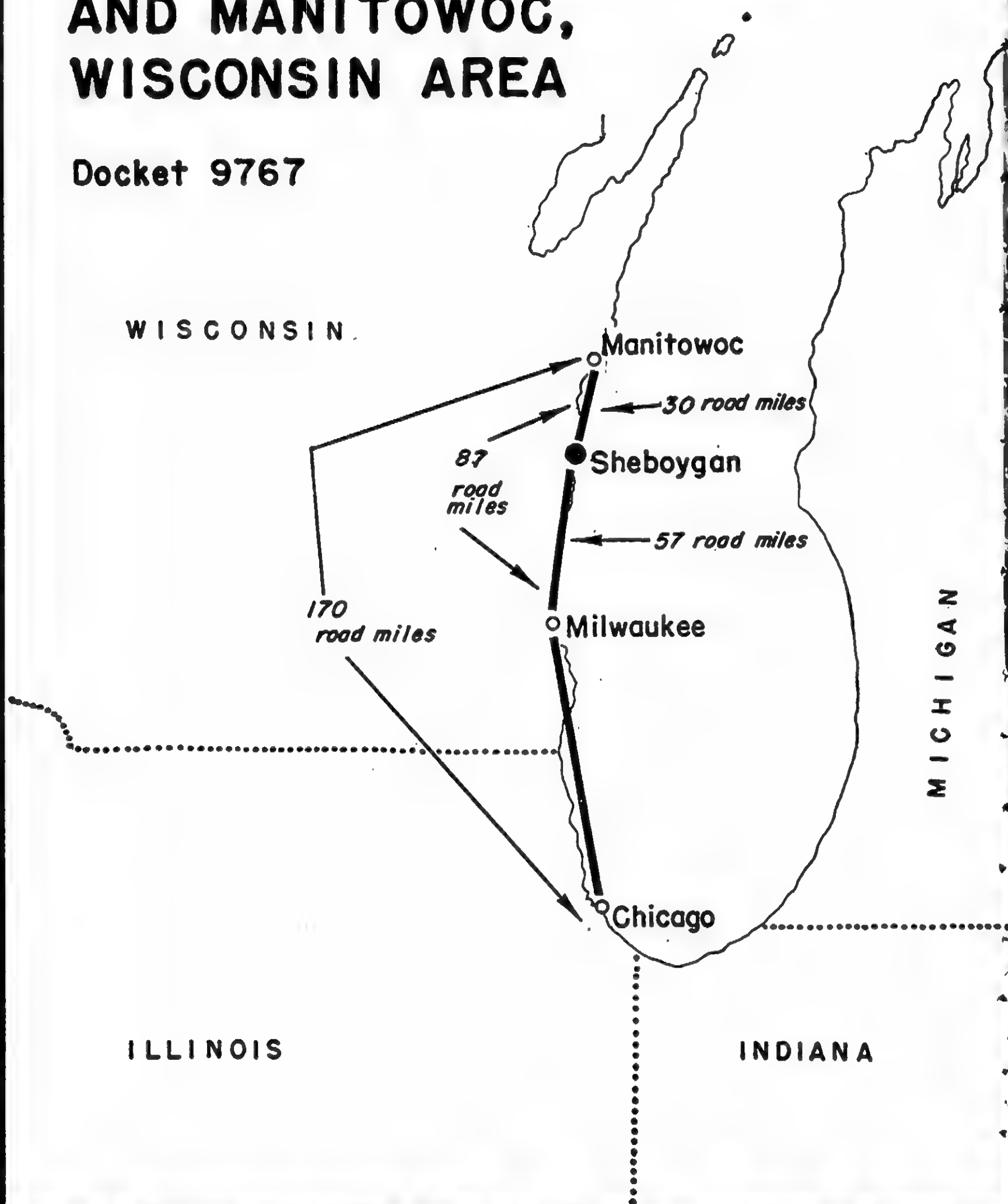
APPENDIX A

PGI FOR MANITOWOC/TWO RIVERS

	<u>Sheboygan</u>		<u>Manitowoc/Two Rivers</u>
	<u>BER-R2</u>	<u>at O'Hare</u>	
Population, 1960 census	45,690	45,690	44,668
Scheduled Departures	1,460	1,460	1,460
Quality Index	105	105	98
Weighted Average Distance	130.3	120.5	150.7
Passenger Generating Index	913	844	963
Passengers	9,160	8,800	9,300
Revenue Passenger Miles	1,193,548	1,060,400	1,401,510

SERVICE TO SHEBOYGAN AND MANITOWOC, WISCONSIN AREA

Docket 9767



UNITED STATES OF AMERICA
CIVIL AERONAUTICS BOARD
WASHINGTON, D. C.

SERVED JUN 18 1963

- - - - -
DOCKET 9767

SERVICE TO THE SHEBOYGAN AND MANITOWOC, WIS., AREA

(Proceedings on Remand)
- - - - -

Decided: June 17, 1963

Public convenience and necessity require amendment of the certificate of North Central Airlines, Inc., for Route 86, so as to redesignate Manitowoc, Wis., as Manitowoc-Sheboygan, Wis., to be served through Manitowoc Municipal Airport.

APPEARANCES:

Same as in the initial decision, and, in addition, the following:

Robert C. Lester for Manitowoc County, the City of Manitowoc, and the City of Two Rivers, Wis.

OPINION OF THE BOARD

By MURPHY, Vice Chairman.

This proceeding concerns service to the Manitowoc/Sheboygan area of Wisconsin.^{1/} Involved are an application of Sheboygan County, Wis., for first air service, and an investigation instituted by the Board in its order of remand,^{2/} to determine whether North Central Airlines, Inc., which presently serves Manitowoc as a separate intermediate point, should be required to serve Manitowoc and Sheboygan through an area airport, and, if so, whether the Manitowoc airport or the Sheboygan airport should be designated by the Board as the area airport.^{3/}

Following further evidentiary hearings held pursuant to the Board's order of remand, Examiner Edward T. Stodola issued his initial decision in which he found that North Central should be required to

^{1/} Sheboygan and Manitowoc are located between Green Bay and Milwaukee, Wis. Sheboygan lies about 28 road miles south of Manitowoc, and the distance between their airports is about 30 road miles. Sheboygan and Manitowoc are situated approximately 75 and 47 road miles, respectively, south of the airport at Green Bay, and about 57 and 86 road miles, respectively, north of the airport at Milwaukee.

^{2/} Order E-18024, February 14, 1962.

^{3/} Other possibilities for service to the Manitowoc/Sheboygan area are (a) the redesignation of Manitowoc, an intermediate point on North Central's segment 2 (Chicago-Hancock/Houghton, Mich.), as Manitowoc-Sheboygan, leaving the choice of airport to the managerial discretion of the carrier, and (b) the designation of Sheboygan and Manitowoc as a hyphenated point to be served at an airport to be constructed midway between the cities. However, we have eliminated these possibilities; since, as to the former, it is apparent that North Central would not, upon its own initiative, serve Sheboygan through its own airport, and, as to the latter alternative, no party urges a new site for service to the Manitowoc/Sheboygan area and the record establishes that the project is impractical because of its cost.

serve the Manitowoc/Sheboygan area exclusively through the Sheboygan airport.^{4/} Exceptions and briefs were filed,^{5/} oral argument was heard, and the case stands submitted for decision.

Upon consideration of the record and the contentions of the parties, we find that no change in the existing pattern of service to the Manitowoc/Sheboygan area is required. We will retain the services now provided through the Manitowoc airport and deny Sheboygan's request for service at the local airport.^{6/} Accordingly, except as modified herein, we adopt as our own the findings and conclusions of the examiner in his initial decisions^{7/} in this proceeding, which are attached hereto as Appendices.

1. The first question to be resolved is whether North Central's services to the Manitowoc/Sheboygan area through the Manitowoc airport should be terminated and the airport at Sheboygan designated as the area airport. North Central, the carrier whose economic interests are at stake, submits that the Manitowoc/Sheboygan area should be served through the airport at Manitowoc rather than Sheboygan. The Bureau takes the position that the Sheboygan airport should be the area

^{4/} The examiner would amend North Central's certificate so as to designate Manitowoc and Sheboygan as a hyphenated point to be served through the Sheboygan County Airport, and retain service on the north-south segment 2 (Chicago-Hancock/Houghton) instead of placing the point on the east-west segment 9 (Minneapolis/St. Paul-Milwaukee).

^{5/} Exceptions and briefs were filed by North Central, the State of Wisconsin, and Manitowoc (Manitowoc County, City of Manitowoc, and City of Two Rivers). No exceptions were filed by Sheboygan County and the Bureau of Economic Regulation, which rely upon their briefs to the examiner.

^{6/} Because of the benefits that should result from the use of the names of both Manitowoc and Sheboygan in the station designation, we will redesignate Manitowoc as a hyphenated point with Sheboygan. Further, we will require, as did the examiner, that the service provided through the Manitowoc airport be rendered over segment 2 rather than segment 9.

^{7/} As noted in footnote 1 on page 2 of the initial decision in the remanded proceeding, it incorporates the initial decision served on July 17, 1961, in the earlier portion of the proceeding.

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airport, and the examiner adopted that position.^{8/} We will continue the airport at Manitowoc as the area airport.

Manitowoc is an established certificated point with proved traffic generating ability. It was certificated for air service in 1946,^{9/} its airport was dedicated on October 4, 1953, and it has received scheduled air service continuously since November 1, 1953. Manitowoc has provided substantial passenger patronage well in excess of the Board's use-it-or-lose-it traffic standards since the second year of service, ranks sixth in traffic generating ability among 16 North Central cities receiving two daily round trips and thirtieth among 59 local service, only, cities of over 10,000 population receiving such volume of service, and under all estimates of record is a substantially profitable point for North Central.^{10/} Manitowoc has a substantial investment in an airport developed and improved for the specific purpose of accommodating North Central's DC-3 service, spent \$227,000 in 1960-1961 to improve the access road to the airport, and has undertaken, or is committed to undertake, other improvements, such as a new runway, a runway extension, and a new terminal building, which will enable the community to enjoy North Central's Convair service at such time as the level of traffic and considerations of subsidy cost warrant the inauguration of such service.

^{8/} Both Sheboygan and the State of Wisconsin argued that air service is required at both the Sheboygan and the Manitowoc airports. Manitowoc opposes any change in North Central's certificate which would deprive it of service at its own airport.

^{9/} North Central Case, 7 C.A.B. 639 (1946). The temporary authorization was renewed in Wisconsin Central Renewal Case, 14 C.A.B. 982 (1951), and was extended for an unlimited period in North Central Airlines, Inc., Permanent Certificate for Route 86, 22 C.A.B. 375 (1955).

^{10/} The estimated annual profit is: Bureau, \$27,354; Manitowoc, \$22,053; and Sheboygan, \$25,082.

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On the other hand, Sheboygan, which was also certificated for air service in 1946, failed to take advantage of the authorization and was eliminated as a certificated stop in 1951. Its airport was first used by the flying public in November 1960, and did not become adequate for scheduled airline service until June 1961. The record does not indicate whether the community has undertaken, or committed itself to undertake, airport improvements necessary for Convair service in the event such service becomes feasible. Not having received service at its own airport in the past, its traffic generating ability and the financial results of local airport service are untested.

Recognizing that comparative ability to generate traffic at the "home" airport is an important consideration in the choice of which of two airports should serve as the area facility, we are not persuaded by the record that Sheboygan would develop more traffic than Manitowoc. The evidence shows that there is no significant difference between the communities with respect to population and economic indices, the highway and surface systems serving them are substantially the same, and the directional flow of their traffic is preponderantly southward to Milwaukee and Chicago, their principal communities of interest, and points beyond. In our view, it would be only logical to expect that neighboring communities that are so similar would generate approximately the same volume of traffic, and since Manitowoc enplaned and deplaned 5,606 passengers in 1961, which the Bureau, allowing for one year's growth at 7 percent, increased to 5,998 for 1962, it would appear that Sheboygan would not generate more than 6,000 annual passengers. Indeed, since Sheboygan is about 29 road miles (or 34 percent)

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closer than Manitowoc to Milwaukee (and also to Chicago), and, as hereinafter indicated, accessibility by surface means is reasonably adequate, we find that Sheboygan would be weaker than its neighbor as a traffic producer.^{11/}

Nevertheless, the initial decision found that Sheboygan would generate a 1962 total of 9,160 passengers,^{12/} or 52.7 percent more than Manitowoc's historic total. The weakness in this finding is its total reliance upon the Bureau's "passenger generating index" forecasting technique^{13/} without according any recognition to (1) the substantial similarity of Sheboygan to Manitowoc and historic traffic at the Manitowoc airport, and (2) the need to make a downward adjustment of the traffic volume resulting from the Bureau's methodology, which would

^{11/} North Central and Manitowoc, making an adjustment for the proximity factor, estimated that Sheboygan would produce 4,324 and 4,921 passengers, respectively, in 1961. See North Central's brief to the examiner (at page 11 and Appendix A thereto) and exhibit MTR-T-1, at page 19.

^{12/} The examiner (initial decision, at page 17) reduced this total to 8,920 passengers because of the shift of North Central's services from Midway Airport to O'Hare Field in Chicago and the consequent reduction in the weighted average distance factor in the passenger generating index forecasting method followed, *infra*.

^{13/} The Bureau's forecasting technique is a statistical methodology described in the initial decision, at page 17, footnote 12. See also the initial decision, at pages 22-23. In view of our decision herein, we do not pass upon the contention of North Central and Manitowoc that the Bureau's forecasting method is statistically unsound and unacceptable.

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take into account the greater proximity of Sheboygan to its communities of interest to the south.^{14/}

Sheboygan forecast 8,000 annual passengers for local airport service.^{15/} Entirely apart from the fact that the data underlying the forecast were produced by surveys suffering from serious deficiencies in survey technique,^{16/} it is evident that this forecast, like the Bureau's, is substantially overstated. The surveys do not persuade us that even with service by North Central at the Sheboygan airport, a large proportion of the community's travelers would not go to Milwaukee or Chicago for air service.

In determining the comparative strengths of Sheboygan and Manitowoc as traffic producers, their ability to generate air freight, air express, and air mail cannot be ignored. Manitowoc has an excellent record for generating this form of traffic,^{17/} and would be superior to

^{14/} Even comparing the traffic potential of Sheboygan and Manitowoc under the Bureau's method without adjustment, Manitowoc would be a slightly stronger traffic producer than Sheboygan. Whereas Sheboygan's passenger generating index and passenger estimate are 913 and 9,160, respectively, Manitowoc's PGI, as shown in North Central's brief to the Board, Appendix A, is 963 (based upon a 1960 population of 44,668, a total of 1,460 scheduled departures, a quality index of 98, and a weighted average distance of 150.7) and results in an estimate of 9,300 annual passengers, substantially in excess of the traffic actually realized at the Manitowoc airport.

^{15/} This forecast is based primarily upon (a) a survey made by the Sheboygan Association of Commerce showing the number of scheduled airline trips made by 61 Sheboygan County firms in 1959 from airports outside of Sheboygan County and the number of air trips made by these firms with private and/or chartered planes, and (b) a survey made by a Sheboygan ticket agency of air trip tickets sold in 1960.

^{16/} Manitowoc's brief to the Board, at pages 24-26, notes some of these deficiencies.

^{17/} The examiner found that "Manitowoc is an excellent generator of air freight and air express traffic." See initial decision, at page 14. The record shows that in 1961 Manitowoc enplaned and deplaned 89.86 tons of freight, 66.69 tons of express, and 16.33 tons of mail, or a total of 172.88 tons. At 190 pounds per passenger, this is the equivalent of 1,788 passengers.

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Sheboygan in this respect.^{18/} While Sheboygan attempted to establish that it would produce a large volume of non-passenger traffic, the projected volume falls short of Manitowoc's historic experience.^{19/}

We further find that from the standpoint of comparative financial results of exclusive operations through the Manitowoc airport or the Sheboygan airport, the advantage lies with the former. While the examiner found that North Central's operations at the Sheboygan airport would show an annual operating gain of \$50,710^{20/} in contrast with the annual gain of \$27,354 resulting from service at the Manitowoc airport and, therefore, that the selection of the Sheboygan airport as the area airport would reduce the carrier's system subsidy requirement by \$23,356 annually, his estimate of the financial effect of airport service at Sheboygan is overstated.^{21/}

^{18/} As shown by the Bureau's forecast which the examiner accepted, Manitowoc would generate 57,247 ton-miles (exclusive of passenger ton-miles) and \$31,887 in revenues (exclusive of passenger revenues), compared to 13,323 and \$8,203, respectively, for Sheboygan.

^{19/} Sheboygan estimated that it would move, in and out, 101.3 tons of freight, 33.5 tons of express, and 36.0 tons of mail, or a total of 170.8 tons.

^{20/} Manitowoc maintains that this sum, which is derived from the estimate in exhibit BER-R-6, should be reduced, since the formula employed in the estimate understates servicing expense by using, without explanation of source, 1,254 "tons originated" instead of 1,538, composed of 1,369 passenger tons (14,420 passengers at 190 pounds), 126 "Other commercial tons" (9.23% of passenger tons), and 45 "Mail tons" (3.29% of passenger tons). Actually, the 1,254 figure employed in computing servicing expense at Sheboygan represents tons originated and tons deplaned, and includes (a) 870 passenger-tons (9,160 passengers off and on at Sheboygan), (b) 250 passenger-tons (2,630 passengers originated at Manitowoc who would use the Sheboygan airport), and (c) 134 "Other commercial tons" and "Mail tons" (based on the passenger-ton totals). In any event, assuming, arguendo, that the Bureau's method properly computes servicing expense for area service at the Sheboygan airport, our decision herein is not altered.

^{21/} The examiner's estimate is based upon the assumption that the Sheboygan airport would generate 14,420 annual passengers composed of 9,160 from the Sheboygan community and 5,260 from the Manitowoc community (87.7 percent of 5,998).

In the first place, as already noted, the record demonstrates that Sheboygan would not generate more passenger traffic than Manitowoc, and probably would generate much less, taking into account the proximity factor. At an average of \$11 per passenger,^{22/} a reduction of just 3,162 passengers (the difference between the examiner's estimate of 9,160 annual passengers at the Sheboygan airport and Manitowoc's total of 5,998) would reduce the revenue forecast by \$34,782.^{23/}

Secondly, the examiner's estimate that 5,260 out of Manitowoc's 5,998 passenger total would use service at the Sheboygan airport if transferred there, is vastly overstated.^{24/} We believe that only a small percentage of Manitowoc-Milwaukee local and connecting passengers would travel via the Sheboygan airport in view of the relatively short distance between Manitowoc and Milwaukee (about 86 road miles), the advantages of travel by surface means, whether by private automobile or by public surface carrier, and (for connecting passengers) the greater attraction of Milwaukee with its multiplicity of frequencies

^{22/} The Bureau estimated that Sheboygan's 9,160 passengers would produce \$100,591 in revenues. See exhibit BER-R-5.

^{23/} It is also apparent that if Sheboygan and Manitowoc produced equal numbers of passengers, North Central would obtain greater revenues from service through the Manitowoc airport than it would receive from Sheboygan airport service since Manitowoc is farther than Sheboygan from Milwaukee and Chicago. The revenue passenger-miles lost would be at least 17 per passenger since, according to the Bureau, the average journey for Manitowoc passengers using the local airport is 147.8 miles (exhibit BER-10) and for Manitowoc passengers using the Sheboygan airport would be 130.8 miles (exhibit BER-R-3).

^{24/} The examiner's estimate is based upon an overall retention factor of 87.7 percent computed by the Bureau on the basis of an analysis of Manitowoc's on-line O&D passengers for the year ended June 30, 1961, and the assumption that passengers would be lost according to the ratio of Manitowoc-Sheboygan mileage to total trip distance. According to the Bureau, 4,456 passengers would be retained out of a total of 5,080 on-line O&D passengers, including 880 out of 1,080 Manitowoc-Milwaukee local and connecting passengers and 3,115 out of 3,390 Manitowoc-Chicago local and connecting passengers. See exhibit BER-R-3.

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spread throughout the day. A larger number of Manitowoc-Chicago local and connecting passengers could be expected to use air service at the Sheboygan airport in light of the greater distance between Manitowoc and Chicago (about 170 road miles), but we have no doubt that the number would not nearly approach the expectation of the examiner. It is also improbable that Manitowoc-Green Bay local passengers would prefer to backhaul to the Sheboygan airport for air service when there is adequate surface transportation to Green Bay and the road distance is approximately 36 miles, and for the great bulk of the other on-line Manitowoc passengers involved in the study upon which the examiner's retention factor is predicated, it is clear that connections via the Green Bay airport (about 47 road miles distant) would be preferable to service at the Sheboygan airport. We have not attempted to determine the precise number of Manitowoc's passengers who would use the Sheboygan airport, but we think that either North Central's or Manitowoc's estimate, 1700 and 1800, respectively, is more realistic than the total forecast in the initial decision. Assuming, arguendo, Manitowoc's passenger retention estimate, and at an average of \$11 per passenger, the examiner's forecast of revenues is overstated by \$38,060.^{25/} Based upon the foregoing considerations, it is evident that North Central would be worse off

^{25/} Neither the parties nor the initial decision focused on the volume of Manitowoc's air cargo that would be retained at the Sheboygan airport. Apparently, however, the examiner believed that the great bulk of this traffic would move via the Sheboygan airport, since he adopted the Bureau's estimate for exclusive service at the Sheboygan airport showing that the non-passenger ton-miles operated (63,461) and non-passenger revenues (\$36,106) would be only slightly less than the figures for separate airport services which, when combined, total 70,570 ton-miles and \$40,090. In our opinion, such a conclusion is conjectural.

financially if service were rendered to the Manitowoc/Sheboygan area exclusively through the Sheboygan airport rather than the Manitowoc airport as at present.^{26/}

A major factor entering into the examiner's decision to designate the Sheboygan airport as the area facility was his finding that the airport was more conveniently located than the airport at Manitowoc with respect to the directional flow of the overwhelming portion of the communities' traffic. Airport location and direction of traffic flow are important considerations in determining an area airport selection issue. Here, the use of the Manitowoc airport by southbound Sheboygan passengers requires a backhaul, but as previously found, there is no substantial need to make this backhaul in view of the adequacy of surface transportation to Milwaukee. On the other hand, the use of the Sheboygan airport by southbound Manitowoc passengers would be substantially en route, but the road distance between Manitowoc and the Sheboygan airport (38 miles) is longer than the road distance between Sheboygan and the Manitowoc airport (30 miles). There is also the

^{26/} We note that the cost of moving personnel and facilities from the Manitowoc airport to the Sheboygan airport is estimated at \$6,500. See exhibit NOR-139. North Central would also lose its investment in public relations and promotion in developing traffic through the Manitowoc airport and incur additional cost in promoting service at the Sheboygan airport.

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likelihood that instead of using the Sheboygan airport at all, the great majority of Manitowoc's passengers would travel by surface means to their destinations at Milwaukee and Chicago to the south and Green Bay to the north, or to obtain air service. In addition, the question of the relative convenience or inconvenience of an airport extends to cargo traffic as well as passenger traffic and, in light of Manitowoc's historic record for generating this type of traffic and the untested potential of Sheboygan in this respect, we are not persuaded that an area airport at Sheboygan would be a more convenient facility for the area's cargo traffic than the Manitowoc airport.

A final consideration which must be weighed in the balance is whether the prospects for improved service to the area will be greater at the Sheboygan airport or the Manitowoc airport. The examiner found that Sheboygan's own air traffic potential, combined with the substantial number of Manitowoc's passengers which he estimated would use the Sheboygan airport, "should produce enough air traffic to justify three or possibly even four round trips daily by North Central at the Sheboygan airport." We think that an area airport at Sheboygan could not expect to receive more than the two daily frequencies now provided at the Manitowoc airport, since the combined total of Sheboygan's passengers and the Manitowoc passengers using the Sheboygan airport, even if it exceeded Manitowoc's historic passenger generation, would not be so substantially in excess as to warrant additional flights.^{27/} In our

^{27/} North Central's witness testified that "If Sheboygan were certificated on North Central's system, North Central would probably operate two round trips a day into Sheboygan." See exhibit NOR-AA (Rev.) at page 7.

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judgment, the most that the area can hope to receive in the future in the form of service improvement is the use of Convair equipment in lieu of DC-3's, should traffic growth and subsidy cost warrant Convair service.

In view of the foregoing considerations, we conclude that, on balance, the public convenience and necessity require that service to the Manitowoc/Sheboygan area continue to be provided through the airport at Manitowoc.

2. The next question is whether, despite our decision to retain service at the Manitowoc airport, we should require North Central to provide Sheboygan with service at the local airport as a separate intermediate point. We have decided not to do so

Sheboygan's air service requirements can be satisfied at either the Manitowoc airport, lying about 28 road miles to the north, or the airport at Milwaukee, located approximately 57 road miles to the south. ^{28/} Surface transportation to reach these airports is reasonably adequate. ^{29/} The proponents of Sheboygan airport service claim that there are insufficient schedules by bus and rail between Sheboygan, on the one hand, and Manitowoc and Milwaukee, on the other hand, that these schedules are not coordinated with the schedules of the airlines at Manitowoc and

^{28/} The airport at Oshkosh, about 51 road miles northwest of the City of Sheboygan, is also available for Sheboygan passengers.

^{29/} Bus and rail schedules between Sheboygan, on the one hand, and Manitowoc and Milwaukee, on the other hand, are available. Two-lane county-trunk highways link Sheboygan and Manitowoc, and driving time, by private automobile, from downtown Sheboygan to the Manitowoc airport does not exceed 46 minutes. The driving time between Sheboygan and the Milwaukee airport varies, according to the evidence of record, from 1 hour and 14 minutes to 1 hour and 45 minutes, and it appears that when the four-lane express highway being constructed between Sheboygan and Milwaukee and the beltline running around Milwaukee are completed, the driving time will be reduced to not in excess of 60 minutes

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Milwaukee, and that passengers traveling to Milwaukee for points beyond are required to utilize additional surface transportation from the bus or rail depots to the Milwaukee airport. They also point out that the use of the Manitowoc airport for southbound Sheboygan passengers requires a backhaul, involving additional time and expense, and that those passengers driving by private automobile to the Milwaukee airport for service must traverse the heart of the Milwaukee business district and suffer the inconvenience of either leaving the car at the airport to await the traveler's return or being chauffeured to and from the airport. In our judgment, these inconveniences are not so substantial or exceptional as to derogate from the basic sufficiency of the surface facilities for obtaining air service at either Manitowoc or Milwaukee. We also note North Central's offer to arrange for limousine service between Sheboygan and the airports at Manitowoc and Milwaukee if there is a sufficient demand for such service.

Separate service at Sheboygan would require a substantial amount of subsidy support annually. The Bureau estimated that service to Sheboygan as an independent point on segment 9 would cost only \$348 in annual subsidy; Sheboygan forecast that such service would produce a net annual profit of \$8,000 to North Central; and the examiner found in his initial decision in the earlier portion of this proceeding that service at the Sheboygan airport would yield a net operating gain of either \$8,413 or \$14,508 per annum, depending upon the segment on which the point was certificated. However, we believe that these forecasts are unduly optimistic. They are based upon traffic estimates which are

substantially overstated, since, as hereinbefore found, the Sheboygan community cannot reasonably be expected to produce more traffic than its Manitowoc neighbor has historically produced and the proximity of Sheboygan to airports to the south where an abundance of air service is available, as well as to the Manitowoc airport to the north, is bound to have a serious dampening effect upon the community's traffic generation at the local airport. In our view, North Central's estimate of an annual subsidy requirement of over \$29,000 is more realistic.^{30/}

Authorization of separate airport service at Sheboygan would produce other undesirable results. It would add another point in a general area where North Central is already obligated to provide a substantial amount of service on short-haul flights at close-by airports.^{31/} This added stop would inconvenience North Central's passengers north of the point moving to Milwaukee, Chicago, and points beyond, would increase the carrier's operating costs, and could hamper North Central's efforts to provide improved service to the Manitowoc/Sheboygan area with more modern Convair aircraft at an appropriate time. It would

^{30/} We also note the impact that certification of Sheboygan would have on North Central's mail rate. North Central estimated that under the class mail rate in 1961, with Sheboygan added as a separate stop, the mail payment would be increased by \$68,037. At oral argument, bureau counsel indicated that under the new class rate the amount of the increase due to adding Sheboygan as a new station would approximate \$35,000. (See transcript of oral argument, page 60.)

^{31/} This is the so-called "Golden Quadrangle," an area in Wisconsin 42 miles wide and 120 miles long extending from north of Green Bay to south of Milwaukee. The quadrangle is served by nine airports capable of receiving North Central's DC-3 service, and six receive it. Within the northern half of this quadrangle, in which Manitowoc and Sheboygan are located, there are six airports capable of receiving the carrier's DC-3 service, and four receive it.

also require a substantial outlay of public funds for improvement of the Sheboygan airport in order to receive Convair-440 service.^{32/}

Balancing the foregoing considerations, we find that the limited convenience accruing to Sheboygan passengers from service through their own airport is outweighed by the disadvantages that would follow. Accordingly, we conclude that the public convenience and necessity do not require the certification of Sheboygan as a separate point on North Central's system.^{33/}

We have considered all the exceptions to the initial decision and find that, except to the extent indicated, they should not alter our decision herein.^{34/}

^{32/} The Federal Aviation Agency estimated that the improvements would cost \$432,350. Furthermore, since the FAA indicated that it would provide financial assistance for the improvement of only the Sheboygan airport or the Manitowoc airport for Convair service, and not for both airports, and since it has previously been concluded that air services at the Manitowoc airport should be retained, only one of the communities could look to the FAA for funds needed to upgrade its airport.

^{33/} The State of Wisconsin claims that Sheboygan, like Manitowoc, should be served through its own airport. We have considered the State's arguments, and find that they do not warrant or require any alteration of our conclusion. To the extent that the State implies that service should be authorized at the Sheboygan airport because the traffic generated there would exceed the Board's minimum standards for retention of local air service, such an argument was considered and rejected in the Piedmont Local Service Area Investigation (Final Portion), supra, mimeo. op. at page 10, footnote 24.

^{34/} In view of our decision herein on the merits, we find it unnecessary to pass upon Manitowoc's exceptions and arguments charging prejudicial error in the examiner's admission of, and reliance upon, exhibits and testimony submitted by Sheboygan in the earlier phase of this proceeding without affording Manitowoc an opportunity for cross-examination of such evidence in the remanded proceeding. We will also dismiss as moot a motion filed by North Central requesting the Board to reopen the record for the admission of a study (made by the carrier and filed in the North Central Airline Service Area Airport Investigation, Docket 13743) of travel movements in the Wisconsin area in which Sheboygan and Manitowoc/Two Rivers are located, inasmuch as this information is not necessary to our decision and North Central is not prejudiced by this action.

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Accordingly, in view of the foregoing and all the facts of record, we find.

1. That the public convenience and necessity require the amendment of the certificate of North Central Airlines, Inc., for route 86 so as to redesignate Manitowoc, Wis., an intermediate point on segment 2, as Manitowoc-Sheboygan, Wis. (to be served through Manitowoc Municipal Airport).

2. That North Central Airlines, Inc., is fit, willing, and able properly to perform the above-described air transportation and to conform to the provisions of the Act and the rules, regulations, and requirements of the Board thereunder.

3. That the application of Sheboygan County, Wis., for scheduled air service at Sheboygan County Airport should be denied.

4. That this proceeding should be terminated.

An appropriate order will be entered.

MINETTI and GILLILLAND, Members, concurred in the above opinion.

BOYD, Chairman, and GURNEY, Member, did not take part in the decision.

APPENDIX

DOCKET 9767

THE EXAMINER'S INITIAL DECISIONS REFERRED TO HEREIN ARE NOT ATTACHED TO THIS COPY BECAUSE OF THE WIDE CIRCULATION GIVEN AT THE TIME OF THEIR RELEASE. THE INITIAL DECISIONS ARE ATTACHED TO THE ORIGINAL OF THE BOARD'S OPINION AND TO THE OFFICIAL COPIES IN THE BOARD'S FILES AND MAY BE EXAMINED THERE. THEY WILL ALSO BE PRINTED AS PART OF THE OFFICIAL "CIVIL AERONAUTICS BOARD REPORTS."

Order No. E-19695

UNITED STATES OF AMERICA
CIVIL AERONAUTICS BOARD
WASHINGTON, D. C.

Adopted by the Civil Aeronautics Board
at its office in Washington, D. C.,
on the 17th day of June, 1963

SERVICE TO THE SHEBOYGAN AND
MANITOWOC, WIS., AREA

Docket 9767

(Proceedings on Remand)

O R D E R

A full public hearing having been held in the above-entitled proceeding, and the Board, upon consideration of the record, having issued its opinion containing its findings, conclusions, and decision, which is attached hereto and made a part hereof;

IT IS ORDERED:

1. That an amended certificate of public convenience and necessity in the form attached hereto be issued to North Central Airlines, Inc., for route 86;
2. That said certificate shall be signed on behalf of the Board by its Secretary, shall have affixed thereto the seal of the Board, and, subject to extension of its effective date in accordance with the provisions of said certificate, shall be effective on August 16, 1963;
3. That the motion to reopen the record, filed on January 25, 1963, by North Central Airlines, Inc., be and it hereby is dismissed;
4. That, except to the extent otherwise indicated, all applications and requests involved in this proceeding be and they hereby are denied;
5. That this proceeding be and it hereby is terminated.

By the Civil Aeronautics Board:

HAROLD R. SANDERSON

Secretary

(SEAL)

BEFORE THE
CIVIL AERONAUTICS BOARD
WASHINGTON, D. C.

SERVICE TO THE SHEBOYGAN
AND MANITOWOC, WIS., AREA

(Proceedings on Remand)

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Docket No. 9767

PETITION FOR
RECONSIDERATION AND RE-ARGUMENT

To the Hon. Civil Aeronautics Board
Washington, D. C.

Sheboygan County respectfully petitions your
Honorable Body for reconsideration of its final order and
an opportunity for re-argument on said Order No. E-19695
decided by your Honorable Body on June 17, 1963, and served
June 18, 1963, and in support of this Petition respectfully
states and shows as follows:

I.

NATURE OF THIS PETITION

This petition is filed pursuant to TITLE 14 --
AERONAUTICS AND SPACE; Chapter II - CIVIL AERONAUTICS
BOARD; sub-chapter B - Procedural Regulations; section
302.37 and is for a reconsideration of the Civil Aeronautics
Board Order No. E-19695. That Order constitutes a final

decision in the proceeding known as the Service to Sheboygan and Manitowoc, Wisconsin Area Case. This proceeding involves an application of Sheboygan, Wisconsin, for air service, under section 401 of the Federal Aviation Act of 1958, as amended. The proceedings herein consisted of two "phases". The original proceeding was on an application for service to Sheboygan County in which an Initial Decision was served on July 17, 1961, wherein the Examiner found that North Central Airlines should be required to provide service at the Sheboygan County Airport, Sheboygan County, Wisconsin, for an indefinite period of time.^{1/} This Board remanded the proceeding to the Examiner for the purpose of determining whether or not the public convenience and necessity required and the Board should order a change in North Central's Certificate of Public Convenience and Necessity so as to designate Sheboygan and Manitowoc as a single point and to authorize service through a single designated airport.^{2/} The subsequent Initial Decision of the Hearing Examiner found that the public convenience and

^{1/} Initial Decision under Docket 9767 Public Hearing Examiner Edward T. Stodola

^{2/} By Order E-18024 which was served on February 15, 1962.

necessity require a change in North Central's Certificate to designate Manitowoc and Sheboygan as a single point on its route system and to authorize service through the Sheboygan airport.^{3/} This Board decided on June 17, 1963, that the public convenience and necessity require amendment of the certificate of North Central Airlines, Inc., for Route 86, so as to redesignate Manitowoc, Wisconsin, as Manitowoc-Sheboygan, Wis., to be served through Manitowoc Municipal Airport.^{4/} This Petition requests a reconsideration by the Board of its herein referred to Order and requests opportunity for Sheboygan County to re-argue the issues before the Board in this proceeding.

II.

MATTERS OF RECORD ALLEGED TO HAVE BEEN ERRONEOUSLY DECIDED

Your petitioner, Sheboygan County, respectfully states that the following matters of record have been erroneously decided:

1. The record does not indicate whether the community has undertaken or committed itself to undertake airport improvements necessary

^{3/} Initial Decision under Docket 9767 (Proceedings on Remand) served November 20, 1962.

^{4/} Order No. 4-19695.

for Convair Service in the event such service becomes feasible.

2. That Sheboygan and Manitowoc are substantially similar communities.
3. That Sheboygan would be a weaker traffic producer than Manitowoc.
4. That adequate surface transportation exists between Sheboygan and Manitowoc and Milwaukee airports.
5. That there is no substantial need for Sheboygan passengers to make a back haul.
6. That the public convenience and necessity require service for the Sheboygan traveler at the Manitowoc Airport.

III.

THE GROUNDS RELIED UPON AS A BASIS FOR RECONSIDERATION BY THIS BOARD

Your petitioner hereinafter will set forth seriatim the matters of record which it respectfully alleges have been erroneously decided and thereafter itemize the basis and ground relied upon by the petitioner to support its allegations herein.

A.

SHEBOYGAN COUNTY HAS COMMITTED ITSELF TO UNDERTAKE AIRPORT IMPROVEMENTS NECESSARY FOR CONVAIR SERVICE

The Board, in its decision herein, on page 4, referring to Sheboygan, erroneously finds that:

"The record does not indicate whether the community has undertaken or committed itself to undertake airport improvements necessary for Convair

Service in the event such service becomes feasible."
(Emphasis supplied.)

Exhibit SHE-105 is a certification of a resolution duly adopted by the Sheboygan County Board of Supervisors, (the rulings governmental body for Sheboygan County) wherein Sheboygan makes this committment. Specific attention is directed to page 2 of Exhibit SHE-105 which reads:

"BE IT FURTHER RESOLVED, that Sheboygan County does hereby endorse and will support the expenditure of funds, if and when necessary, for the continuance and maintenance of scheduled commercial air service for the extension of either or both of its runways from their present length to whatever length is necessary for Commercial Airline Service."

The County Clerk's Certificate at the bottom of said resolution indicates that said resolution was passed by sixty-two votes for adoption and no votes against (with two votes absent and excused). The master plan for the Sheboygan County Memorial Airport^{5/} indicates that future extensions and improvements for the County Airport were contemplated and are physically possible. Both exhibits clearly demonstrate that the above finding is erroneous and that Sheboygan, in fact, has committed itself to improvements of its field for Convair Service if and

^{5/} Exhibit SHE-107, pages 1 and 2

when necessary.

B.

SHEBOYGAN AND MANITOWOC ARE NOT
SUBSTANTIALLY SIMILAR COMMUNITIES

The Board, in its decision, erroneously finds that:

"The evidence shows that there is no significant difference between the communities with respect to population and economic indices. . ." (Emphasis Supplied)

and further:

"In our view, it would be only logical to expect that neighboring communities that are so similar, shall generate approximately the same volume of traffic. . ." ^{6/} (Emphasis Supplied)

also, on page 5 of its Decision:

"The weakness in this finding is its total reliance upon the Bureau's passenger generating index forecasting technique without according any recognition to (1) the substantial similarity of Sheboygan to Manitowoc. . ." (Emphasis Supplied)

This oft made comparison by the Board finding that Sheboygan and Manitowoc are similar, is without basis in the record. The Examiner's findings of Sheboygan County's superiority and his recognition of the comparative indices herein referred to (that is, the combination analysis) has

^{6/} Board's Decision, page 4.

not been overruled by this Board.^{7/} The comparisons made in the record are between the City of Manitowoc combined with the City of Two Rivers as compared to the City of Sheboygan (and in a few instances a comparison of Manitowoc County and Sheboygan County). To cite, by a few illustrations, the comparative analysis, see the following:

Population Comparison:^{8/}

City of Manitowoc	32,275
City of Sheboygan	45,747

Total Employment:^{9/}

City of Manitowoc	12,461
City of Sheboygan	18,423

This comparison could continue ad infinitum (see item by item Exhibit MTR-2.34). An analysis of the comparisons is made in Sheboygan Rebuttal Exhibit R-2. In effect, what the Board has done is to compare an area concept to a single city, to-wit: The City of Manitowoc and the City of Two Rivers area to the City of Sheboygan. To have a valid comparison, one must include the area surrounding the City of Sheboygan as its traffic generating area. The recognition of this fact can be found in the transcript of Mr. Lester's testimony.^{10/} To compare one city to two cities is not a valid comparison and when the comparison is

^{7/} Initial Decision (on Remand) page 13 and page 20.

^{8/} Exhibit MTR-2.30

^{9/} Exhibit MTR-2.31

validly made, one city to one city or one area to one area, there is no basis for a finding of substantial similarity-- Sheboygan is stronger on all points (except in a county analysis, Manitowoc County leads in farm products sold).

C.

SHEBOYGAN WILL GENERATE SUBSTANTIALLY
MORE TRAFFIC THAN MANITOWOC

The Board (on page 5 comparing Manitowoc and Sheboygan) states:

"... we find that Sheboygan would be weaker than its neighbor as a traffic producer."

In the original phase of this proceeding, the Examiner found:

"Sheboygan County, North Central, and the Bureau each estimate that approximately 8,000 passengers a year would be generated at the Sheboygan County Airport. Sheboygan County forecasts that 8,000 passengers would be generated at its airport during a one-year period from the seventh to the eighteenth month of certificated service. North Central forecasts that 7,228 passengers would be generated for a one-year period at the Sheboygan Airport should service be certificated to Sheboygan County. The Bureau estimates that a total of 8,680 origination and destination passengers would be generated to and from the Sheboygan County Airport during the forecast year ended September 30, 1961. Thus, all of the traffic forecasts of record are within very close range of each other." 11/

11/ Examiner's Initial Decision, page 8.

In the second phase of the proceeding, this projection was subjected to theories of the effects of "retention factors" or "drainage" and further exaggeration of "proximity losses". The Examiner properly found:

"Sheboygan's alleged drainage loss is only an estimate on the part of Manitowoc and this estimate is not supported by probative evidence."^{12/}

The Board's ultimate finding does not logically flow from the basic facts found within the record. The Board's finding is based on the the hypothesis that "accessibility by surface means is reasonably adequate," and that the Examiner's finding is made in "total reliance upon the Bureau's "passenger generating index" as a forecasting technique."^{13/}

The Board must make a basic finding as to the basis in the record of the passenger generating ability of Sheboygan upon which it makes its ultimate finding of public convenience and necessity. The Board has refused to pass on the validity of the methodology referred to as the "P.G.I." Manitowoc has made no projection of Sheboygan's traffic generation, but has merely supplied rebuttal information as to the

^{12/} Examiner's Initial Decision (Proceedings on Remand)
page 21

^{13/} Order page 5.

Sheboygan forecast. The Board's logic is that the historic experience of one area establishes the historic experience of a neighboring city. Although logic of the fact that Sheboygan is 43% greater than the City of Manitowoc does not require a conclusion that Sheboygan would produce 43% more traffic, but in combination with the other "stronger" comparative factual indices it compels such a conclusion. Add to this that Manitowoc's historic experience includes its "fused economic union with Two Rivers, then should not the total Sheboygan area as a comparative strength analysis be used?^{14/}

Your petitioner further respectfully represents that a methodology for potential passenger generation by one party cannot be combined with the methodology of "proximity losses"

^{14/} See Examiner's Initial Decision (Proceedings on Remand) page 26, in which the Examiner recognizes the evidence supports the greater area concept when he finds:

"Thus, in estimating the probable number of air passengers at its airport in the earlier phase of this proceeding, Sheboygan projected only that traffic which this city anticipated would use the airport at Sheboygan and not all of the traffic which would have had its actual origination and destination at Sheboygan. In other words, in calculating its total air traffic potential, Sheboygan allowed for traffic presently originating at the Manitowoc airport and traffic which would not use the proposed service at Sheboygan because of the proximity of Milwaukee and Chicago. Nevertheless, Manitowoc has subtracted drainage from a figure which is already less than the total air traffic potential of Sheboygan."

with that of another party and the methodology of "retention factors" of another party as all methodologies are framed in their own premises. It is respectfully submitted that all methodologies except the passenger survey of Sheboygan, the "P.G.I.", and the historic experience interposed upon comparative statistics are the only evidentiary material in the record. The historic experience projection as found by the Board is not based on a true comparative analysis as the proper basic indices are not used. (An area is being compared to a city.) Any other projection is made on the basis of personal judgments and not supported by probative evidence.

D.

SURFACE TRANSPORTATION FROM
SHEBOYGAN TO MANITOWOC AND
MILWAUKEE AIRPORTS IS POOR
AND INADEQUATE

The Board was in error when it found that adequate surface transportation exists between Sheboygan and the Manitowoc and Milwaukee airports.^{15/} The fact that the surface transportation above referred to is poor is supported by Exhibit SHE-35, the personal testimony of Mr. Mathieu.^{16/} This testimony also

^{15/} Board Order, page 12.

^{16/} Transcript pages 353 through 368.

points out that there is no regularly scheduled public conveyance means available from the City of Manitowoc to its airport. The poor surface transportation to the Milwaukee Airport was summarized by witness, George Holman, who said:

"We had a case yesterday, a man had to leave here the day before and in order to get to Chicago he had to stay over night and had to come back last night way late. I think that train pulled in at midnight."
(Transcript, page 73.)

and with heavy sarcasm in his voice, he concluded,

"Wonderful train service we have here."

Again on page 75, he said in answer to how his salesmen get to Sheboygan:

"They come by here to Chicago and then they can't get out from there to get here, so they have to stay and take those late trains or the 6 o'clock in the morning train that gets here, they have an awful time getting here."

Poor surface transportation is emphasized in the following excerpt from the transcript, pages 80 and 81. Cross examination by Mr. Shooman:

Question: "... have any of your customers ever complained to you or refused to come to Sheboygan because there was no air service into Sheboygan?

Answer: "Yes, sir, we have had many people come as far as Chicago and some of them to Milwaukee. And in several cases the buyers took a plane from Milwaukee and Chicago and then to Minneapolis and did buying there instead of coming to Sheboygan and buying from us, because they had no way of getting here, . . ."

See also Manitowoc exhibits 4.10 through 4.60.

The Board's note that the driving time from Sheboygan to the Milwaukee Field will be reduced considerably is an opinion and a projection of the needs of this community optimistically estimated to be in effect seven years from now (in the future) and not a basis for a finding that today's surface transportation is adequate. As the Examiner found in his Initial Decision on page 19:

"... the fact is that Sheboygan is not conveniently located to the Milwaukee Airport."

The above finding also fails to recognize the isolation barrier to surface transportation to the east caused by Lake Michigan.

E.

SHEBOYGAN PASSENGERS ARE
REQUIRED TO MAKE A SUBSTANTIAL BACK HAUL

It is respectfully submitted that the Board erroneously found:

"There is no substantial need to make this back haul in view of the adequacy of surface transportation to Milwaukee."^{17/}

First, this finding contravenes the finding that the Sheboygan area passengers need air service.^{18/} Second, this finding is based on the erroneous hypothesis that there is adequate

^{17/} Board Order, page 10.

^{18/} This finding is made by the Board when it states that the public convenience and necessity require the amendment of North Central's certificate to include Sheboygan as a hyphenated point (see finding 1, page 60).

surface transportation (see above). Third, this finding contravenes the finding that "the directional flow of their traffic is preponderantly southward to Milwaukee and Chicago."^{19/} The fact of geography requires a Sheboygan-Milwaukee or Chicago passenger to drive twenty-seven miles north (and incur the additional travel time and transportation costs to Manitowoc) and pay the additional airline fare of twenty-seven miles back to Milwaukee just to go south which is 90% of the directional traffic flow. It requires him to incur the inconvenience of leaving his automobile at the airport or requiring someone else to drive fifty-four miles, to permit him to start his air trip and, in the alternative, if he uses public surface transportation, he may be faced with a four hour layover at Manitowoc, all of which we submit is substantial inconvenience compelling a rejection of Manitowoc flight plans.

F.

THE INCONVENIENCE IS SUBSTANTIAL TO
THE SHEBOYGAN TRAVELER AND OUTWEIGHS
ALL DISADVANTAGES THAT WOULD FOLLOW
GRANTING OF SERVICE TO SHEBOYGAN

The Board states:

"...we find that the limited convenience accru-

^{19/} Order, page 4.

ing to Sheboygan passengers from service through their own airport is outweighed by the disadvantages that would follow."^{20/}

The disadvantages referred to in the above finding are also spelled out in the Board's Order.

First, the Board concludes that this would add another point in a general area where North Central is already obligated to provide a substantial amount of service on short haul flights at close by airports.^{21/} This conclusion is always true when additional points are added to any substantially populated area, but the criterion is not the number of points nor the convenience to the air carrier, but the determination of what is in the interests of the public convenience and necessity. Parenthetically, it should be noted that the area referred to by the Board and colloquially denominated "The Golden Quadrangle" has 6 of North Central's 15 stops in Wisconsin. This area also has 49% of the State's population (almost 2,000,000 people); it has 49% of the total employed in the state; it has 49% of the total manufacturing establishments; and it has 49% of the total retail sales. This area has, in fact, almost half of the "heart" of Wisconsin in it! People and industry give birth to the needs for airline

^{20/} Board Order, page 15.

^{21/} Board Order, page 14.

service and precipitate the public necessity and convenience demands.

Second, the Board concludes that this stop would inconvenience people to the north.^{22/} Any stop, other than the point of destination, is an inconvenience to the traveler. If this is the criterion, it means that no additional stop could ever be had no matter what the public convenience and necessity were.

Third, the Board concludes that the additional stop would increase costs, but no reference is made to the increased revenue potential which heretofore has been discussed.

Fourth, reference is made to the adoption of Convair-440 Service. There is nothing in this record that commits North Central to the adoption of Convair-440 Service nor even indicates a contemplation of said type of service. However, if the criterion is the investment of substantial funds to meet the Convair-Service requirements, the record demonstrates that substantially more funds would be required at the Manitowoc Field than at the Sheboygan Field to meet this need.^{23/}

^{22/} Board Order, page 14.

^{23/} See Exhibit BER-R-8 in which the Federal Aviation Agency estimated the cost at the Manitowoc Airport to be \$484,518 as compared to Sheboygan's cost of \$432,350.

The evidence in this record supports only a finding that the public convenience and necessity require service to Sheboygan at the Sheboygan County Memorial Airport. It is clear that Manitowoc's experience in passenger generation outranks numerous other cities which are receiving local air service. Sheboygan also, from this record, will outrank other cities receiving air service if it is provided service at its own airport. The regional concept does not have inherent in it an improvement in the economies of air service, nor does it compel the conclusion that the public convenience and necessity is best met by the adoption of this concept. What may be in the interest of the air carrier may not meet the test of public convenience and necessity. As the Examiner concluded in his Initial Decision in analyzing the convenience to the Sheboygan traveler:

" . . . Sheboygan residents travelling south of their city deserve a more convenient way of travelling by air." 24/

(and 90% of the traffic flow is south).

24/ Initial Decision, page 20.

G.

THE ULTIMATE FACT AS TO THE PUBLIC CONVENIENCE
AND NECESSITY WHICH FLOWS FROM THE BASIC FACTS
IS THAT THE PUBLIC CONVENIENCE AND NECESSITY
REQUIRES AIR SERVICE TO THE SHEBOYGAN TRAVELER
AT THE SHEBOYGAN AIRPORT

An analysis of the basic facts in the record leads only to the ultimate finding that the public convenience and necessity require service for the Sheboygan traveler at the Sheboygan Airport. The record clearly demonstrates that the Sheboygan traveler now has, and historically has had, available to him, service at the Manitowoc Field. The fact that said service was not used by the Sheboygan traveler is established in the record and underscores the inconvenience factors to the Sheboygan traveler. Logically, the Board cannot conclude that the public convenience requires something which in fact now exists. This is, however, what the Board's ultimate finding does. To say that the public convenience and necessity demands are being met by adding a "hyphen" and the proper noun "Sheboygan" to an air carrier certificate is a theoretical expostulation which has no basis in practical fact. This Board has properly found that the Sheboygan air traveler has some needs not now being met. These needs are not met by the ultimate conclusion of amending the carrier's certificate as drawn by this Board. The Board logically must either

conclude that the Sheboygan air traveler has no needs not now being met, or in the alternative, it must conclude that Sheboygan's travelers need service at their field. No other conclusion follows from the record of the facts.

UNITED STATES OF AMERICA
CIVIL AERONAUTICS BOARD
WASHINGTON, D. C.

Adopted by the Civil Aeronautics Board
at its office in Washington, D. C.,
on the 19th day of July, 1963

----- :
SERVICE TO THE SHEBOYGAN :
AND MANITOWOC, WIS., AREA : Docket 9767
(Proceedings on Remand) :
----- :

ORDER DENYING PETITION FOR RECONSIDERATION

On July 5, 1963, Sheboygan County, Wis., filed a petition requesting reconsideration of the Board's Order E-19695, June 17, 1963, in the above-entitled proceeding. Alternatively, the petitioner requests that the Board permit reargument of the issues or withhold its final order on the petition until it makes a final determination of the issues in the North Central Area Airline Service Airport Investigation, Docket 13743. ^{1/} An answer opposing the petition was filed by Manitowoc County, City of Manitowoc, and City of Two Rivers, Wis., jointly.

The Board finds that the petition should be denied. The matters presented therein do not establish error in, or warrant or require alteration of, the Board's decision of June 17, 1963. No useful purpose would be served by reargument of the issues, and no persuasive justification has been submitted for the requested deferral of decision.

ACCORDINGLY, IT IS ORDERED: That the petition for reconsideration, reargument, or deferral of decision, filed by Sheboygan County, Wis., on July 5, 1963, be and it hereby is denied.

By the Civil Aeronautics Board:

HAROLD R. SANDERSON

Secretary

(SEAL)

^{1/} This is an airline service airport investigation instituted by the Board pertaining to certain points served by North Central Airlines, Inc. See Order E-18533, June 29, 1962.

IN THE
UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

SHEBOYGAN COUNTY, a municipal
corporation,

Petitioner.

v.

No. 18.104

CIVIL AERONAUTICS BOARD

Respondent.

PREHEARING CONFERENCE STIPULATION

Pursuant to Rule 38(k) of the Court, and subject to its approval, the parties hereby stipulate and agree as follows with respect to the issues and the procedures and filing date for the joint appendix herein.

I.

Issues

Petitioner seeks review of a Board order denying its application for scheduled air service at the Sheboygan County Airport and amending the certificate of public convenience and necessity of North Central Airlines so as to redesignate Manitowoc, Wisconsin as "Manitowoc-Sheboygan, Wis. (to be served through Manitowoc Municipal Airport)." Petitioner's issues are as follows:

1. Whether the following findings of fact by the Board are supported by substantial evidence.

1. That adequate surface transportation exists between Sheboygan and Manitowoc and Milwaukee airports.
2. That Sheboygan would be a weaker traffic producer than Manitowoc.
3. The record does not indicate whether the community has undertaken or committed itself to undertake airport improvements necessary.
4. That Sheboygan and Manitowoc are substantially similar communities.
5. That there is no substantial need for Sheboygan passengers to make a back haul.

2. Whether the Board's ultimate findings of fact are supported by sufficient basic findings of fact.

3. Whether the Board's ultimate finding that the public convenience and necessity required the redesignation in North Central's certificate of Manitowoc as Manitowoc-Sheboygan (to be served through Manitowoc Municipal Airport) is supported by its basic findings.

4. Whether the Board's enunciation during the course of its proceeding of its "Regional Airport Policy" was in excess of its authority and deprived petitioner of due process of law and prejudiced it by arbitrarily establishing an "after-the-fact" standard of public convenience and necessity.

Respondent, on its own behalf and that of any intervenor in support of its order, reserves the right in its brief to rephrase petitioner's issues or to take the position that some or all of the points raised in said issues

are immaterial or not open to review. Petitioner specifically agrees that any grounds of error not urged in its opening brief shall be treated as abandoned for purposes of review herein, although it reserves the right to respond on reply brief to any matters raised in the brief or briefs of the other parties.

Procedures with Respect to Printing
of the Joint Appendix and Use of
Unprinted Portions of the Record

The joint appendix shall contain the materials required to be included by the Rules of the Court, the materials designated by the parties, this stipulation, and the order of the Court approving this stipulation. At the time each party files and serves its brief, it shall also serve its designation of the portions of the certified record to be reproduced in the joint appendix. As soon as all such designations have been made, the petitioner shall cause the joint appendix to be printed as required by the Rules of the Court, and shall file it within 15 days after the due date of the reply brief. Board counsel are authorized to release the certified transcript of record to any printer in the District of Columbia selected by petitioner for printing of the joint appendix.

The parties in their briefs shall cite the record by referring to the appropriate page numbers in the certified transcript of record, such

citations to be in the form "(Tr. ____)". On each page of the joint appendix there shall appear (a) at the top center of the page, the usual consecutive numbering of joint appendix pages; (b) along the left margin, at the point where material from each page of the certified record commences the number of that record page; and (c) at the outer top corner, a running head showing the numbers of the certified record pages which appear on that joint appendix page.

Any party, in brief or on oral argument, may refer to or rely upon any portion of the original certified record which has not been reproduced in the joint appendix, to the extent that such portion may be material to the stipulated issues. If the Court so requires, any portions of the record thus referred to shall be reproduced in a supplemental joint appendix.

/s/ Alexander Hopp
Alexander Hopp
Attorney for Petitioner

/s/ O. D. Ozment
O. D. Ozment
Attorney for Respondent

/s/ Donald J. Bero
Donald J. Bero
Attorney for Manitowoc County,
applicant for intervention.

Dated: October 11, 1963

UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 18,104

SEPTEMBER TERM, 1963

Sheboygan County, a municipal corporation, v. Civil
Aeronautics Board.

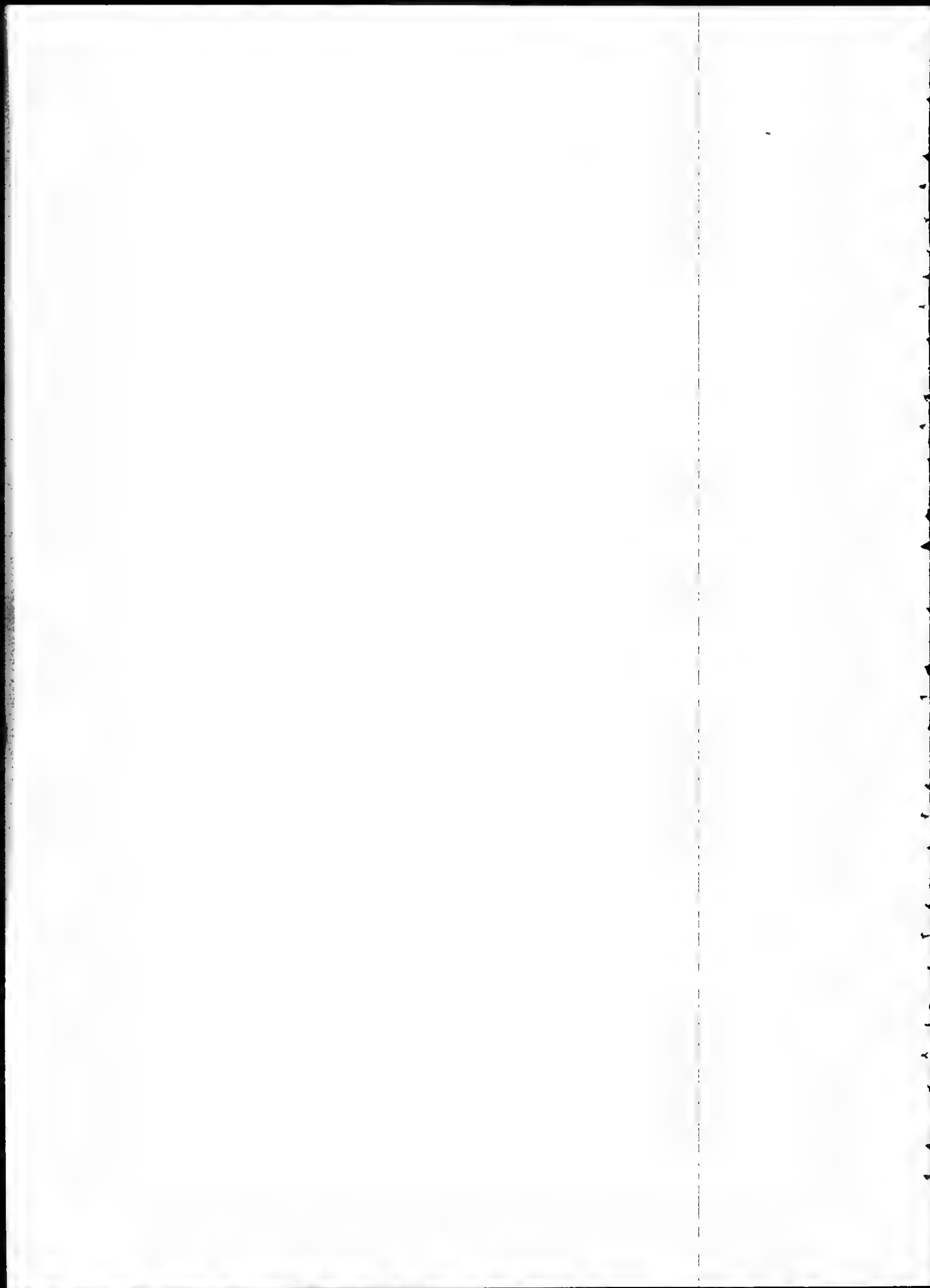
Before: Wilbur K. Miller, Circuit Judge,
in Chambers.

PREHEARING ORDER

The parties in the above-entitled case having submitted their prehearing stipulation pursuant to Rule 38(k) of the General Rules of this court, and the stipulation having been considered, the stipulation is hereby approved, and it is

ORDERED that the stipulation shall control further proceedings in this case unless modified by further order of this Court, and that the stipulation and this order shall be printed in the joint appendix of the parties herein.

Dated: October 17, 1963



UNITED STATES COURT OF APPEALS

for the District of Columbia Circuit

No. 18, 104

SHEBOYGAN COUNTY, a municipal
corporation,

Petitioner,

v.

CIVIL AERONAUTICS BOARD,

Respondent,

MANITOWOC COUNTY, a municipal
corporation,

Intervenor.

ON PETITION TO REVIEW ORDERS OF THE
CIVIL AERONAUTICS BOARD

United States Court of Appeals
for the District of Columbia Circuit

FILED NOV 20 1963

Nathan J. Paulson
CLERK

ALEXANDER HOPP
Corporation Counsel
Sheboygan County Court House
Box 128
Sheboygan, Wisconsin

Attorney for Petitioner,
SHEBOYGAN COUNTY

(i)

STATEMENT OF QUESTIONS PRESENTED

1. Whether the following findings of fact by the Board are supported by substantial evidence:

- (a) That adequate surface transportation exists between Sheboygan and Manitowoc and Milwaukee airports.
- (b) That Sheboygan would be a weaker traffic producer than Manitowoc.
- (c) The record does not indicate whether the community has undertaken or committed itself to undertake airport improvements necessary.
- (d) That Sheboygan and Manitowoc are substantially similar communities.
- (e) That there is no substantial need for Sheboygan passengers to make a back haul.

2. Whether the Board's ultimate findings of fact are supported by sufficient basic findings of fact.

3. Whether the Board's ultimate finding that the Public convenience and necessity required the redesignation in North Central's certificate of Manitowoc as Manitowoc-Sheboygan (to be served through Manitowoc Municipal Airport) is supported by its basic findings.

4. Whether the Board's enunciation during the course of its proceeding of its "Regional Airport Policy" was in excess of its authority and deprived petitioner of due process of law and prejudiced it by arbitrarily establishing an "after-the-fact" standard of "public convenience and necessity".

(iii)

UNITED STATES COURT OF APPEALS

for the District of Columbia Circuit

No. 18, 104

SHEBOYGAN COUNTY, a municipal
corporation,

Petitioner,

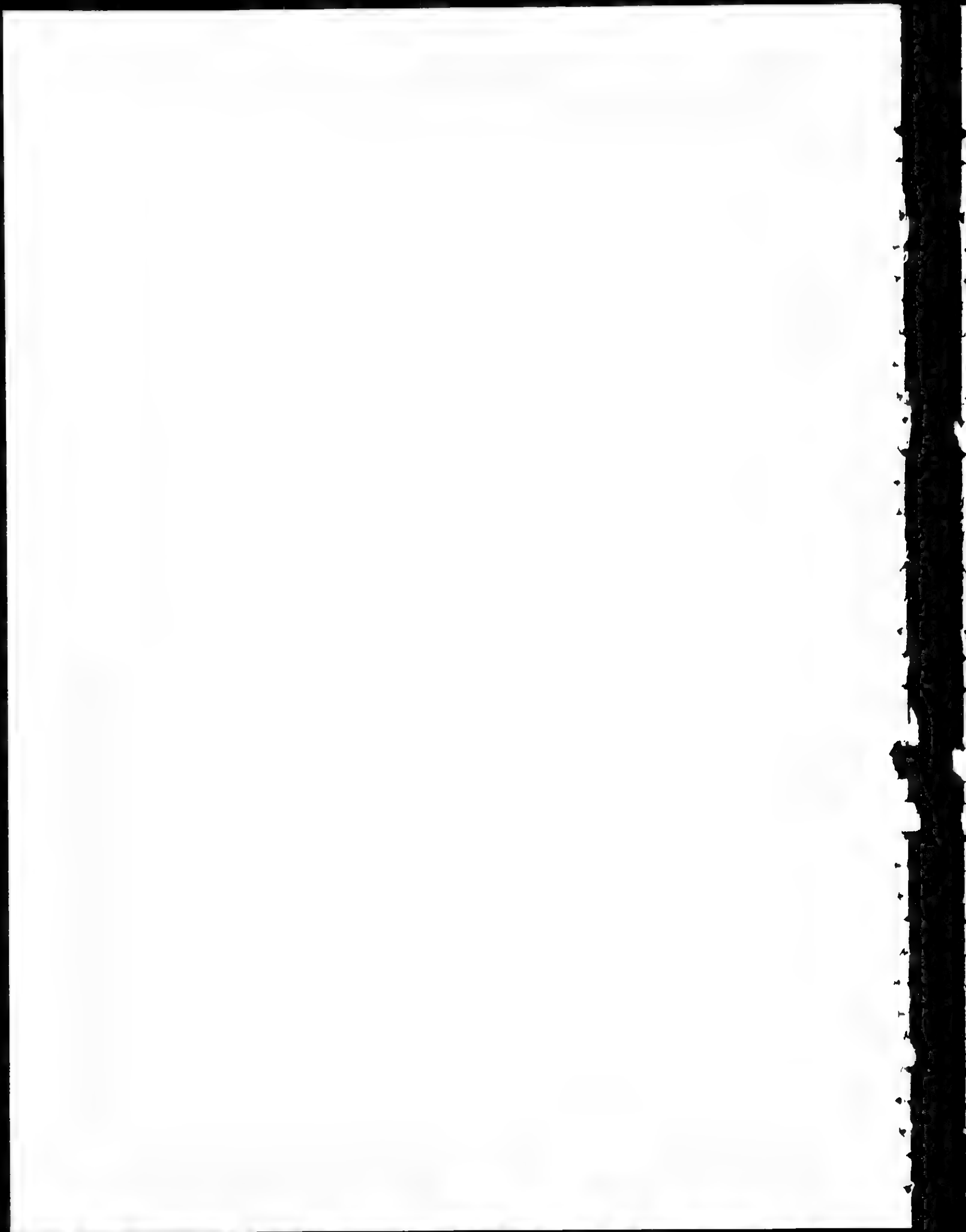
v.

CIVIL AERONAUTICS BOARD,

Respondent,

MANITOWOC COUNTY, a municipal
corporation,

Intervenor.



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UNITED STATES COURT OF APPEALS

for the District of Columbia Circuit

No. 18, 104

SHEBOYGAN COUNTY, a municipal
corporation,

Petitioner,

v.

CIVIL AERONAUTICS BOARD,

Respondent,

MANITOWOC COUNTY, a municipal
corporation,

Intervenor.

ON PETITION TO REVIEW ORDERS OF THE
CIVIL AERONAUTICS BOARD

BRIEF FOR RESPONDENT

JURISDICTIONAL STATEMENT

Petitioner, Sheboygan County, seeks review of the orders of the respondent, Civil Aeronautics Board, denying its application for scheduled air service at the Sheboygan County Memorial Airport and requiring that it be served through the intervenor's (Manitowoc County) airport.

Petitioner is a municipal corporation and political subdivision of the State of Wisconsin. Jurisdiction of the Court is created and conferred by

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Section 1486 of the Federal Aviation Act of 1958, as amended, (72 Stat. 731, 49 U.S.C. 1301 et seq, formerly known as the Civil Aeronautics Act of 1958, 52 Stat 1924, 49 U.S.C. 646 et seq).

STATEMENT OF CASE

This case arises out of the application (on July 28, 1958) of Sheboygan County for scheduled air transportation (TR 1) pursuant to the provisions of Section 401 of the Civil Aeronautics Act of 1938. (Now known as the Federal Aviation Act of 1958 as amended). As petitioner's airport was in the area served by North Central Airlines, it was made a party to the proceedings.

Public hearings were held at Sheboygan on March 22, 23, and 24, 1961. At the time of said hearings, there was, in effect, what was known as the Board's "Use It or Lose It" policy. 1/ Before the Examiner issued his first Initial Decision on the hearings held at Sheboygan, there was enunciated on May 2, 1961, what has come to be known as the "Regional Airport Policy" of the Civil Aeronautics Board and the Federal Aviation Agency. The policy was directed to the broad question of whether or not closely located or adjacent cities would not be better served through regional air fields. 2/

1/ The Board had on December 8, 1958, issued a decision in the first of twelve nationwide local service investigations (Seven States Area Investigation, Docket 7454, et al. Order E-13254) in which it adopted as guide lines a minimum traffic standard to be applied to the average traffic generation of a community receiving service. Said minimum generation was to be calculated the first twelve months of service following the original six months of service and required as a minimum for an individual station an average of five passengers or originations daily and for a flight segment a minimum of seven passengers per flight. The Board indicated that the minimums were not entirely inflexible and that unusual or compelling circumstances would be considered in evaluating the needs of communities which generate less than the above minimums.

2/ The policy statement concluded as follows:

"The Federal Aviation Agency and the Civil Aeronautics Board agree that the use of a single airport serving adjacent communities, where such action may result in a saving both to the Federal Government and the locality served, as well as improving the air service to the area, should be an increasingly important factor in considering applications for federal funds for airport construction purposes and applications for certificated airline service."

Subsequently, the Hearing Examiner, (in his first Initial Decision on July 17, 1961) found that the public convenience and necessity require that Sheboygan be provided with scheduled air service at its own airport, (TR. 1149). The Examiner found that the issue of service for Sheboygan through an airport other than its own was not involved in the proceeding. (TR 1169) It was his conclusion that Sheboygan was likely to generate considerably more traffic annually than was being generated at Manitowoc, and that the residents of Sheboygan County were already using air travel in a volume in excess of the "origination" standards of the Board's "Use It or Lose It" policy. 3/ Consideration was given by the Examiner, to the surface travel facilities between Sheboygan and the Cities of Milwaukee and Chicago. 4/

The Respondent, Civil Aeronautics Board, thereafter (on February 14, 1962) remanded the proceeding to the same Examiner for further hearings for the purpose of determining whether or not the public convenience and necessity required and the Board should order a change in North Central's Certificate of Public Convenience and Necessity so as to designate Sheboygan and Manitowoc as a single point and to authorize service through a single designated airport, (TR. 1273). 5/ In essence, whether or not the Regional Airport Policy should be applied to the petitioner's application for service.

3 / This conclusion was based on the near unanimous estimates of record by the respective parties to the original proceeding that approximately 8,000 passengers would be generated annually (TR. 1158)

4 / As he phrased it:

"It would obviously be unjust and inconsistent with the developmental purposes of the Federal Aviation Act to deny out of hand Sheboygan County's request for air service on the ground that connections for such travel may be made through surface transportation to Milwaukee and/or Chicago." (TR. 1171)

5 / Manitowoc County is a political subdivision of the State of Wisconsin (located adjacent to Sheboygan County) within which are located two cities: the City of Manitowoc located 28 road miles north of Sheboygan, and the City of Two Rivers located 6 road miles north of Manitowoc, (TR. 2932).

Additional hearings were held before the same Examiner (on July 25, 26, and 27, 1962) and the Examiner again (in his second Initial Decision (TR. 2656 et seq on November 20, 1962) found that the public convenience and necessity required service to petitioner, Sheboygan, at its own airport and in addition, that Intervenor, (Manitowoc) should receive its service through the Sheboygan County Airport (TR. 2656). On this occasion, the Examiner applied the regional airport concept to the issues. In analyzing the four criterion, 6/ the Examiner found that distance and driving time were not substantial barriers to the use of either airport as the regional facility, (TR. 2685). Likewise, in terms of airport capabilities, he found that the airports at either community could not show any significant advantages one over the other, (TR. 2686). His cost analysis concluded that if the service were consolidated at Sheboygan, North Central's operations could have a reduction in its overall subsidy needs of over \$23,000, (TR. 2687). Finally, in considering the traffic aspects, he found that the overwhelming majority of the passengers of the Manitowoc-Two Rivers area would have available a convenient service at the airport at Sheboygan, while at the same time, the location of Manitowoc's airport north of Sheboygan with the directional flow of most of Sheboygan's traffic to the south, would make it relatively more inconvenient for the Sheboygan passengers to use the Manitowoc Airport than for the Manitowoc passengers to use the Sheboygan Airport, (TR. 2688). His Order was for service for Sheboygan at Sheboygan.

6/ The four fundamental factors or considerations in deciding whether or not two or more adjacent communities should be served through a regional airport, to-wit:

1. Airport accessibility
2. Airport capabilities
3. Cost
4. Traffic (including the frequency of service and directional traffic flow) (TR. 2684)

However, the Civil Aeronautics Board, on June 18, 1963, ordered that the petition of Sheboygan for scheduled air service as a separate point, be denied, and that Sheboygan be included in the certificate for service at the Manitowoc Airport, (TR. 2949).

The Board, in concluding that the public convenience and necessity required that the service to the Sheboygan and Manitowoc areas be provided at the Manitowoc Airport, indicated that it was not persuaded that Sheboygan would develop more traffic than Manitowoc. It found too that Manitowoc had a greater ability to generate air freight, air express, and airmail, than Sheboygan. It also found that the financial results of exclusive operations would favor Manitowoc and that the airport location and traffic flow did not create any substantial inconvenience to the public, (TR. 2944).

STATUTES INVOLVED

The statutes involved are the Civil Aeronautics Act, now known as the Federal Aviation Act of 1958, and the Administrative Procedure Act. Such provisions as are relevant to the questions to which this Brief are addressed are set forth in Appendix B hereof, or are cited in the text.

STATEMENT OF POINTS RELIED ON

The Civil Aeronautics Board erred as follows:

1. In making certain basic findings as to the petitioner's need for scheduled air service, which were critical to its conclusions, but which were not supported by the "substantial" evidence.
2. In not spelling out in greater detail the basis for its denial of petitioner's application for air service at its own airport, so as to permit this Court to properly carry out its limited function of review.
3. In not having its ultimate conclusion flow from its basic facts when it determined that public convenience and necessity required service to petitioner (at an airport in a neighboring community) when such service was historically available to petitioner.
4. In denying petitioner due process in exceeding its authority by establishing a standard of need during its proceedings when promulgating a "regional airport" policy and retroactively applying it to petitioner.

SUMMARY OF ARGUMENT

I.

The Board's findings must be supported by the substantial evidence. Essential basic findings by the Board are not so supported. Petitioner has selected five basic findings of the Board which it contends are illustrative of the Board's error. These erroneous findings are within the rule of prejudicial error.

The Board made comparisons of unlike units - it compared the City of Sheboygan to the two cities - Manitowoc and Two Rivers. It should compare like units, (e.g. area to area). Proper comparisons when made show Manitowoc-Two Rivers area and Sheboygan are different. When it is shown that there is substantial difference between the two, a major portion of the Board's decision is without "substantial" support. (Such as is its finding that Manitowoc would be the greater traffic producer.) Likewise, petitioner contends that surface transportation to neighboring city airports is inadequate, and the record will not support any finding to the contrary.

Because of geographical location, a Sheboygan Traveler using air service, at the fields available to him in the eyes of the Board, will be faced with substantial inconvenience. One alternative is to drive one hour and forty-five minutes to the Milwaukee Airport (through "big" city downtown traffic), the other alternative is to go in the opposite direction of his true destination to the Manitowoc airport - backhaul over the same ground (90% of the trips taken), and incur the additional expense and time delays - yet the Board made a basic finding of no need for substantial backhaul without proper support of record. Likewise, there is record documentation of the Board's error in finding that Sheboygan has not committed itself to airport improvements.

The particular findings of the Board fail in their lack of proper support and are prejudicial to Sheboygan. This court, when reviewing the record to determine whether the Board has met its measure of substantiality must give the Board's findings "closer scrutiny" than generally, as the Board rejected the decision of its Hearing Examiner - not once, but twice !

This act of rejecting its Examiner's Decision is a factor this Court must consider as it is as much a part of the record as the testimony itself.

II.

As this Court's review is very "limited" in scope, the Board had a duty to make sufficient basic findings to give the Court a clear view of the Board's basis for its action. The petitioner questions the adequacy of the Board's findings for such as exist are negative or vague generalizations and fail to show suitable complete statements of its reasons for its conclusions.

III.

Add to this the Board's fallacy in logic, (that a hyphen-and-proper-noun-will-supply-a-need) that a need exists, when historically it has been fulfilled and the Board now orders it to be fulfilled- then there clearly exists prejudicial reversible error. (The Board finds Sheboygan needs service but should get it at Manitowoc - when Sheboygan has always had Manitowoc service available to it - it can not have a new need, if the need is and always has been fulfilled by the method of the historic past). If Sheboygan has a "need" for service, it logically can only be met at the Sheboygan Airport.

IV.

The petitioner went to the Board for service aware of a certain criterion of need - the experienced development of the public convenience and necessity and a "Use It or Lose It" policy as the same had been applied to the rest of the "public" and their applications - petitioner successfully stood the test of a hearing and an Examiner's Decision - only to find that a new policy - one directed at joint airport construction and use - was being retroactively applied to it. Petitioner contends it has by this been denied "Due Process". In point of law, administrative "due-process-retroactivity" is weighed in the balance of whether the evil outweighs the result (do the ends justify the means). Petitioner contends that this is a case of administrative denial of due process. The problems of agency procedural delays or hind sights should not justify retroactivity.

Lack of "substantial" basis, fallacious reasoning, inadequate findings, and denial of "due process" make up petitioner's claim of prejudicial error by the Civil Aeronautics Board and give rise to its prayer for relief.

ARGUMENT

I.

CERTAIN BASIC FINDINGS OF THE BOARD WHICH ARE CRITICAL AND NECESSARY TO ITS ULTIMATE FINDINGS ARE NOT SUPPORTED BY SUBSTANTIAL EVIDENCE

A.

The Board's Findings are Conclusive only if Supported by Substantial Evidence.

The Board, in its analysis of the measure of the public convenience and necessity as applied to the Sheboygan application for scheduled air transportation, made basic findings which are not supported by the substantial evidence. The findings of the Board are conclusive only if they are supported by the "substantial evidence" (Section 1486 (e) Federal Aviation Act of 1958). Petitioner concludes that five material findings are not supported by "substantial" evidence.

B.

Sheboygan and Manitowoc are Not Similar Communities.

The repeated comparison and finding that Manitowoc and Sheboygan are similar communities is without basis in the record. It is prejudicial to Sheboygan to make that comparison as the comparison is the foundation for all sorts of other statistical conclusions as to traffic generation, proximity losses, passenger flow, and ultimately the measure of public convenience and necessity. Specifically, the Board erroneously found:

"The evidence shows that there is no significant difference between the communities with respect to population and economic indices . . ." (Emphasis supplied) (TR. 2935)

and further:

"In our view, it would be only logical to expect that neighboring communities that are so similar, shall generate

approximately the same volume of traffic . . ." (Emphasis supplied) (TR. 2935)

also:

"The weakness in this finding is its total reliance upon the Bureau's passenger generating index forecasting technique without according any recognition to (1) the substantial similarity of Sheboygan to Manitowoc . . ." (Emphasis supplied) (TR. 2936)

An analysis of the above requires determination of what comparison is being made. Essentially, throughout the record, the comparison made is between the area of the two cities of Manitowoc and Two Rivers and their surrounding territories as compared to the single City of Sheboygan. (In a few instances a county to county comparison is made). This matter was reviewed in the cross examination of Intervenor, Manitowoc's, economic expert as follows:

"Q. Well, apparently we're not talking about the same thing. When you use the term "Sheboygan", are you referring to Sheboygan City?

A. When I use the term "Sheboygan" I mean Sheboygan City, unless it's clear from the context -- and in some places it is -- that I'm referring to the county or a larger unit.

Q. I'm not specifically concerned at this point with the county, but I'm concerned with what I have in mind are the surrounding areas.

A. Yes, sir. We introduced direct exhibits reflecting the Manitowoc-Two Rivers potential and Sheboygan potential that was reflected in the earlier exhibits in the case. We continued that there was rebuttal because there has been nothing assayed by whole parties and other exhibits to indicate a different Sheboygan base than the Sheboygan City.

Q. So that if there is evidence in this record which would indicate that there is a relationship at Sheboygan with certain surrounding areas as you contend there is between Manitowoc and Two Rivers, that a basis of comparison should be Manitowoc-Two Rivers on the one hand and Sheboygan and those surrounding areas on the other hand?

A. Well, further on, on the same page, I'm describing what I'm getting at here. I think you ought to consider for both communities the area which the airport and the air service at the airport can reasonably tap. It's true with respect to any airport. And I think it should be demonstrated in the case of Sheboygan what area is contained and that is the figure to use for comparative purposes. (Emphasis supplied)

Q. Well, I gather we agree with that. If there is evidence in the record to show that the surrounding areas are the same relation to Sheboygan as Manitowoc-Two Rivers, and you contend

that the Manitowoc-Two Rivers are almost one economic unit, and therefore you use them in your comparison, I think it should apply to Sheboygan.

A. In general principle, I agree with you. But I haven't found anything as yet in this record that some traffic would be generated from the Sheboygan area. How far out that goes, I don't know.

Examiner Stodola: Let me interrupt. What communities lie south of the City of Sheboygan that you think the Sheboygan airport may tap?

The witness: I think it would be reasonable from what I've heard in this case to tap Sheboygan Falls, Kohler, and probably Plymouth. Now, beyond that, I would rather have them suggest cities and distances to me because I don't pretend to be that familiar with the area. It has not been developed that well -- it hasn't been developed well enough, that I understand."
(TR. 1786)

The economic comparisons can readily be made by examining the exhibit of Manitowoc and Two Rivers (MTR-2.10 and 4.43 - TR.2049 et seq) (Sheboygan Exhibit R-1 through 5, TR. 2424 et seq). In essence, the comparison is one of "apples to oranges". One city is being compared to two cities. If the comparison is made area to area, there would be no finding of substantial similarity. Sheboygan is stronger on all points (except in a county analysis where Manitowoc County leads in farm products sold).

The Examiner, who twice found for petitioner, Sheboygan, recognized the fact that the comparisons were in fact area comparisons and in his second Initial Decision pointed out that the Sheboygan "urbanized area" would have a total of 56,460 people as compared to the Manitowoc-Two Rivers total of 44,668, (TR. 2668). Petitioner submits that a pool of 12,000 people is hardly an insignificant difference when calculating the public convenience and necessity. It is a resource that must be considered both in the potential contribution to the air travel revenue results and in consideration of the convenience or inconvenience of the travelling public. These 12,000 people are part of that public which the Board fails to recognize exist. They help to make up the economic vitality of the comparative areas.

Adequate Surface Transportation Does Not
Exist Between Sheboygan and Manitowoc or
Milwaukee Airports

The Board found that Sheboygan's air service requirements could be satisfied at either the Manitowoc Airport lying about 28 road miles to the north or the airport at Milwaukee located approximately 57 road miles to the south, (TR. 2943). It based this conclusion on its finding that:

"Surface transportation to reach these airports is reasonably adequate." (TR. 2943) 7/

The matter of inconvenient surface transportation to the respective airports was dealt with at length during the hearings and in the testimony and exhibits of the parties, (TR. 819 et seq and TR. 2049 et seq). In fact, the Board indirectly recognized the problem of surface transportation when it indicated:

"The proponents of Sheboygan airport service claim that there are insufficient schedules by bus and rail between Sheboygan, on the one hand, and Manitowoc and Milwaukee, on the other hand, that these schedules are not coordinated with the schedules of the airlines at Manitowoc and Milwaukee, and that passengers travelling to Milwaukee for points beyond are required to utilize additional surface transportation from the bus or rail depots to the Milwaukee airport. They also point out that the use of the Manitowoc airport for south-bound Sheboygan passengers requires a backhaul, involving additional time and expense, and that those passengers driving by private automobile to the Milwaukee airport for service must traverse the heart of the Milwaukee business district and suffer the inconvenience of either leaving the car at the airport to await the traveler's return or being chauffeured to and from the airport. In our judgment, these inconveniences, are not so substantial or exceptional as to derogate from the basic sufficiency of the surface facilities for obtaining air service at either Manitowoc or Milwaukee." (Emphasis supplied) (TR. 2943-2944)

7/ The Board supported this finding with a footnote which read:

"Bus and rail schedules between Sheboygan on the one hand, and Manitowoc and Milwaukee on the other hand, are available. Two-lane county-trunk highways link Sheboygan and Manitowoc, and driving time, by private automobile, from downtown Sheboygan to the Manitowoc Airport does not exceed 46 minutes. The driving time between Sheboygan and the Milwaukee airport varies, according to the evidence of record, from 1 hour and 14 minutes to 1 hour and 45 minutes, and it appears that when the four-lane express highway being constructed between Sheboygan and Milwaukee and the beltline running around Milwaukee are completed, the driving time will be reduced to not in excess of 60 minutes." (TR. 2943)

The matter of air transportation is significant only in relation to travel time. Road miles have no meaning to the air traveler, time only is the meaningful consideration. It can hardly be said that an hour and forty-five minute trip to travel 57 miles is not a substantial inconvenience when the same can be flown in less than one-third of the time. To say that a bus layover of four hours in a small urban community plus a taxicab ride to the airport is not a matter of substantial inconvenience is to be blind to the emotions and frustrations of human beings. In essence, the judgment determination is almost incomprehensible. Parenthetically, it should be noted that the Board gives credence to Sheboygan's position that surface transportation is inadequate when it stated:

"We also note North Central's offer to arrange for limousine service between Sheboygan and the airports at Manitowoc and Milwaukee if there is a sufficient demand for such service."
(TR. 2944)

This statement at best should not be considered as probative evidence.

The Board notes that the surface travelling time from Sheboygan to the Milwaukee airport will be reduced considerably because of the construction of a four lane express highway being constructed between Sheboygan and Milwaukee. This statement dehors the record, as the expressway will be built solely in Milwaukee County, will not come to Sheboygan County, and is optimistically estimated to be completed seven years from the date of the hearing and is, therefore, not a basis for a present finding of today's surface transportation.

As the Examiner found in his Initial Decision:

"... the fact is that Sheboygan is not conveniently located at the Milwaukee airport". (Emphasis supplied) (TR. 1169)

The Board's position as to surface transportation also fails to recognize the geography of the area and the isolation barrier to surface transportation caused by Sheboygan's location on the east shore of Lake Michigan, (TR. 1155).

D.

The Sheboygan Passengers Who Would Use the
Manitowoc Airport are Required to Make a
Substantial Backhaul

It is respectfully submitted that the Board erroneously concluded:

"There is no substantial need to make this backhaul in view of the adequate surface transportation to Milwaukee."

In essence, this finding recognizes the fact that a backhaul is involved, a fact that geography confirms; and a critical matter in the eyes of the Examiner. It should be noted that the Board here does not deny that backhaul is involved, but states that Sheboygan passengers need not experience this backhaul as they can go to Milwaukee for scheduled airline service. In essence, this finding is inconsistent with the Board's conclusion that Sheboygan's passengers can be served at the Manitowoc Airport. As the Examiner phrased it:

"In the case of Sheboygan, its projected traffic data show that about 90 per cent of its air travelers would be moving to and from Milwaukee or Chicago and points beyond the latter cities. Thus, in the case of the southbound Sheboygan passengers, the designation of the Manitowoc airport as the regional airport would create a backhaul problem for those passengers."
(TR. 2688)

If the Board believes that the Sheboygan passenger did not need service at the Sheboygan area when it concludes that 90% of its air travel population should drive 57 miles (consuming one hour and forty-five minutes of frustrating auto driving) there is hardly a grant of public convenience to the Sheboygan air passenger. More realistically, the Board's ultimate conclusion should have been, if the above fact is established, that Sheboygan should be certificated for service at the Milwaukee airfield. All of which emphasizes the erroneousess of the Board's finding.

E.

Sheboygan Must Be Considered as the Greater
Traffic Producer When Compared with Manitowoc

There is no probative evidence in the record to base a finding that Sheboygan would be a weaker traffic producer than Manitowoc. The Examiner, in his second Initial Decision had little difficulty in determining that considerations of traffic, when considering Manitowoc and Sheboygan, clearly support

the Sheboygan Petition. As he put it:

"Ultimately, the choice of which of the two existing airports should serve as the area facility boils down primarily to an evaluation of several factors: the traffic generating capabilities of these two points; the directional flow of traffic; and the relative convenience/inconvenience of reaching the proposed area airport. To decide the feasibility of designating one of the airports as the area airport, it must be first determined which community will generate the preponderance of the area's traffic. Logically, the greater the traffic is at a particular point, the greater is the potential incidence of inconvenience if the point is served through an airport other than the local facility. Thus, all other things being equal, the community which has the greater traffic generating capabilities should be designated as the area airport. On this account, Sheboygan must be favored over Manitowoc since the record shows that Sheboygan will generate 9,160 passengers annually as compared to Manitowoc's 5,998. Supporting this important factor of traffic generating capability are the further significant factors of the directional flow of the traffic and the overall convenience of one airport over the other.

As already shown, Manitowoc's and Sheboygan's traffic flow is overwhelming southward to Milwaukee or Chicago and points beyond. Therefore, the location of the Sheboygan airport, approximately 30 miles south of Manitowoc, is of critical significance." (TR. 2696)

The analysis of the traffic potential of Sheboygan as compared to Manitowoc is dealt with at length by the Examiner and by the Board, both coming to opposite conclusions with the same factual information. The fact that the Board based its analysis on City of Sheboygan considerations instead of Sheboygan area considerations leads the Board into this error. Further, the matter of traffic generation and the "proximity" and "drainage" losses are pure conjecture (as found by the Examiner (TR. 2675 and 2677)) and are not supported by probative evidence. Unlike the test of public convenience and necessity, the comparative analysis method employed by the Board is one that will, without variance, always conclude that the existing service point will produce more traffic than any new point merely because it is tested and the new point must project its traffic in relationship to the tested area. It should also be pointed out that this is not the type of case in which there are contiguous cities involved as was the case of City of Dallas, et al. v. Civil Aeronautics Board, et al. 94 U.S. App. D.C. 75, 221 F. 2d. 501, pg. 504. The test of public convenience and necessity is not one that permits mathematical computations.

The measure of public convenience and necessity was succinctly (and almost poetically) but realistically phrased in the case of American Airlines v. Civil Aeronautics Board 89 U.S. App. D.C. 365, 192 F. 2d 417 (1951) where this Court stated:

"The public convenience and necessity for which regulatory agencies issue certificates are the convenience and necessity of the future. The needs of yesterday require no fulfillment if they be not the needs of tomorrow. They may require recompense, but they need no regulation. Every new bus route, new airplane service, new radio station, new stock issue, new pipeline, new power project, and so on, seeks its permissive certificate upon the basis of future possibilities. If past or present events are indicative of such probabilities, they are useful as indices. But surely the future is not limited to or by the past. An application for a new bus route could not be denied because there has been no bus service on that route; and the same axiom must apply to air freight."

"Since regulatory functions must necessarily contemplate the future, the law which is involved in those functions must be realistic enough to permit that scope. So, when a prospective rule is required to be upon evidence, that evidence must be construed to include estimates, or forecasts, or opinions, on future events. At the same time, governmental permissions for the future cannot be fashioned from pure fantasy, speculation devoid of factual premise. Public convenience and necessity in the sense of these statutes has a hard core of factual possibility, which can be ascertained and evaluated only upon the basis of present and past events and conditions. So the function of the agencies to which Congress has delegated these responsibilities is to examine the relevant past and present and then to exercise a rational judgment upon that data to ascertain the public convenience and necessity in the reasonably foreseeable future."

F.

Sheboygan County Has Committed Itself To
Undertake Airport Improvements Necessary
for Convair Service

The Board found:

"The record does not indicate whether the community has undertaken or committed itself to undertake airport improvements necessary for convair service in the event such service becomes feasible."

The above finding is clearly erroneous. Sheboygan County is governed by a County Board of Supervisors and this County Board adopted a resolution making the commitment referred to above. Specific attention is directed to page 2 of Exhibit SHE-105, (TR. 2413 and 2414).

"BE IT FURTHER RESOLVED, that Sheboygan County does hereby endorse and will support the expenditure of funds, if and when necessary, for the continuance and maintenance of scheduled commercial air service for the extension of either or both of its runways from their present length to whatever length is necessary for Commercial Airline Service."

In addition, the master plan for the Sheboygan County Memorial Airport indicates that future extensions and improvements for the County Airport were contemplated and are physically possible, (EX. SHE-107, TR. 2416). It is submitted that the above is clear documentation that the finding is erroneous. It cannot be argued that the above is not a commitment. To require, in order to conclude a commitment, the signing of a contract for the construction of improvements in advance of their need is to require the unwarranted expenditure of public funds. (Especially in a case of this nature if airline service were not in fact provided.) Except by formal resolution by its governing body, there is no other formal way for a community to commit itself. The significance of this finding is that it casts the prejudicial shadow on the perspective of the Board and its other basic findings.

G.

The Unsupported Findings of the Board Were
Critically Fatal to Sheboygan County

The findings alleged to be erroneous and unsupported as so found by this Court vitiate the conclusions of the Board. The findings herein referred to are the foundations of the Board's denial of Sheboygan's application. They are the basis upon which the Board built on its ultimate conclusions. A reversal of these findings compels a reversal of the Order of the Board.

The Board's findings must be based on substantial evidence. Public opinion to the contrary, this is considerably more than a scintilla of evidence. The qualifying adjective has been defined as follows: "substantial evidence means more than a mere scintilla. It means such evidence as a reasonable mind might accept as adequate to support a conclusion." Edison Co. v. Labor Board 305 U.S. 197, 229 (1938). See also Stason, Substantial Evidence in Administrative Law, (1941) 89 U.P.L. Rev. 1026, 1038, arguing that "substantial evidence" means substantial in view of the whole record.

If one strips from the Board's Order the above findings as not being supported by the substantial evidence - if one concludes, as did the Examiner on two occasions; that Sheboygan and Manitowoc are different; that surface transportation to the Sheboygan "air" user is inadequate; that use of the Manitowoc field requires 90% of the Sheboygan "air" users to make a substantial backhaul; that Sheboygan is an adequate "traffic" producer; and that Sheboygan has demonstrated its good faith by making a formal commitment to meet the "airport" needs of a carrier if it uses its field; - then surely the public convenience and necessity require service certification to Sheboygan at Sheboygan.

H.

In Determining Whether Findings are Supported by
"Substantial" Evidence the Fact that the Examiner
Reached a Different Conclusion than the Agency is
a Factor which Must be Considered

The general rule is that the Board's findings should be given much weight, but this rule is qualified where these findings reject the Hearing Examiner's findings. In these kinds of cases the Court has said the Board's findings "will be subject to closer scrutiny". In re United Corporation, 249 F. 2d 168 W.J. Dillner Transfer Co. v. I.C.C. (3rd Cir. 1957) 193 F. Supp. 823, aff'd 368 U.S. 6. While it is true that the rejection of an Examiner's findings is usually not fatal, the fact that in addition to creditability of witnesses, basic facts are in dispute changes the rule. The Examiner's Decision is as much a part of the record as is the testimony and exhibits and the Examiner's findings must be considered with the testimony when determining whether the Board's findings are supported by "substantial" evidence and the fact that the Examiner reached different conclusions is a factor to be taken into consideration. Universal Camera Corp. v. N.L.R.B., 1951, 71 S. Ct. 456, 467, and U.S. Retail Credit Association, et al. v. Federal Trade Commission (4 Cir. 1961) 300 F. 2d 212. The double rejection (i.e. on two different occasions) of the Examiner's findings most certainly brings this rule into active being in this proceeding.

I.

The Rule of Prejudicial Error Applies With
Regard to These Findings

The Federal Administrative Procedure Act, Sec. 10 (e) closes with the truism that "due account shall be taken of the rule of prejudicial error. Without question, the findings, if found to be without proper "substantial" basis, were and are prejudicial to petitioner, Sheboygan County.

II.

THE BOARD'S ULTIMATE FINDINGS OF FACT ARE
NOT SUPPORTED BY SUFFICIENT BASIC FINDINGS
OF FACT

A.

The Grounds Upon Which an Administrative
Agency Acts Must be Clearly Disclosed

Congressional action through the passage of the Administrative Procedure Act has imposed upon a reviewing court the responsibility of setting aside any Board's findings and conclusions if they are found to be arbitrary, capricious, an abuse of discretion, or not otherwise in accordance with law. (Section 10 (e) (1) Administrative Procedures Act 5 U.S.C. Section 1009). For this to be a meaningful limitation, it follows that the administrative agency involved (the Board in this case) must set out sufficient findings to enable the Court to properly fulfill its obligation. As stated in S.E.C. v. Chenery, Inc. 318 U.S. 80, 94 (1943):

"The orderly function of the process of review requires that the grounds upon which the administrative agency acted be clearly disclosed and adequately sustained."

Each primary ground upon which an order is based must be factually analyzed and discussed in sufficient detail to permit the Court to comprehensibly review the basis of the Board's action. Lake Center Airlines, Inc. v. C.A.B. 99 U.S. App. D.C. 226, 229 F. 2d 46 (1956). If the Board has not adhered to this standard, the Court has vacated its order and required further proceedings. Greensboro-High Point Airport Authority v. C.A.B. 97 U.S. App. D.C. 358, 231 F. 2d 517 (1956).

Section 8(b) of the Administrative Procedure Act, 60 Stat. 242, 5 U. S.C. 1007, provides that the "record" shall show the ruling of the administrative

agency upon each finding and conclusion or exception presented. In re United Corporation, 249 F. 2d 168 (3rd Cir. 1957) interpreted this provision when it said:

"The final order of an administrative agency must include findings and conclusions upon all material issues presented on the record. The reasons or basis for the decision must also be clearly enunciated. This principle is well-established in law and was expressly codified by Section 8(b) of the Administrative Procedure Act."

The material basis upon which the Board Order is grounded is one of economics - the number of people who would use air service at Sheboygan as compared to Manitowoc (i.e. passenger generation) and the financial effect of providing said service. As to these matters, the Board has not made sufficient findings based on evidentiary needs in the record. The Board, as is within its province, states:

"... Except as modified herein, we adopt as our own the findings and conclusions of the Examiner in his Initial Decision ..."

It is significant that the Examiner who heard the testimony, knew the communities and airport involved, came to opposite conclusions from that of the Board. In such a situation it is extremely critical that the Board supply sufficient of its own findings or as stated by the Supreme Court that enough be put of record to enable this court to perform its limited function. Eastern Central Association v. U.S. 321 U.S. 194, 212 (1944).

It is the petitioner's position that the Board's findings are so vague and obscure as to make this review perfunctory. See Colorado Interstate Gas Company v. Federal Power Commission 324 U.S. 518, 594 (1945). See also Baltimore & Ohio Railroad Company v. United States (3rd Cir. 1953), 201 F. 2d 795, 799; Reviewing Court should have more than generalization; Public Utilities Commission of Connecticut v. Federal Power Commission 119 (3rd Cir. 1953), 205 F. 2d 116: Adequate specific findings must be made; United States v. Carolina Freight Carriers Corp. 315 U.S. 475 (1942): Order must contain express findings of basic facts to support the ultimate facts; Spiegel v. Public Utilities Commission of the District of Columbia (D. C. Cir. 1955). 226 F. 2d 39; Capital Transit Co. v. Spiegel 350 U. S. 904 (1955): Board must show suitably complete statement of its reasons

and its conclusions; American Airlines v. Civil Aeronautics Board. (D.C. Cir. 1956) 235 F. 2d 845, 853 cert. den. 353 U.S. 905; Phelps Dodge Corp. v. Labor Board, 1941, 313 U.S. 177, 197; Reviewing Court must have a clear view of the basis for the Agency's action.

It is true that the Board states that Sheboygan would be a weak traffic producer and says the Examiner overstated the Sheboygan position. It justified this, in stating that the Examiner relied totally on the passenger generation index. In fact, however, a complete reading of the Examiner's Initial Decision shows that different methodology was used by all of the parties to the Initial Hearing and that the total projected passenger ability was near unanimous and that the only change in the second hearing by North Central and Manitowoc was the application of a "drainage" or "proximity" factor to the projected traffic. 8/ Petitioner contends there is no probative evidence upon which to employ these factors as the Examiner found:

8/ In his first Initial Decision, the Examiner found:

"Sheboygan County, North Central, and the Bureau each estimate that approximately 8,000 passengers a year would be generated at the Sheboygan County Airport. Sheboygan County forecasts that 8,000 passengers would be generated at its airport during a one-year period from the seventh to the eighteenth month of certificated service. North Central forecasts that 7,228 passengers would be generated for a one-year period at the Sheboygan Airport should service be certificated to Sheboygan County. The Bureau estimates that a total of 8,680 origination and destination passengers would be generated to and from the Sheboygan County Airport during the forecast year ended September 30, 1961. Thus, all of the traffic forecasts of record are within very close range of each other." (TR. 1158)

In the second Decision the estimates were:

<u>Parties</u>	<u>Manitowoc</u>	<u>Sheboygan</u>
North Central	5738	2573
Manitowoc	5624	4921
Sheboygan	--	8000
Bureau Counsel	5988	9160

(TR. 2671)

"As to the proximity or so-called "drainage" reduction, the carrier conceded at the hearing that these factors were pure judgment estimates and were not based on experience or measurable statistical data. With respect to self diversion, the best index of self diversion of record is the actual amount of Sheboygan originating traffic carried by the carrier in 1960 between Milwaukee and Chicago, which, as found in the earlier phase of this case, amounts to 985 passengers." (TR. 2675)

and further,

"However, Sheboygan's alleged drainage loss is only an estimate on the part of Manitowoc and this estimate is not supported by probative evidence." (TR. 2677)

The Board, in not accepting the Examiner's findings because of its position that he relied totally upon the "passenger generating index" (TR. 2936), is compelled to make some determinations as to the fallaciousness of the index, but it states:

"In view of our decision herein, we do not pass upon the contention of North Central and Manitowoc that the Bureau's forecasting method is statistically unsound and unacceptable."

In essence, the Board, has with one stroke of the pen, eliminated consideration of a forecast technique employed in almost all economic proceedings of this nature while at the same time it states it is not passing on the validity of the technique. Either the evidence is proper upon which to base a finding or it is not, and the Board must be compelled to be more specific to enable this Court to properly support its function. From the Board's Order, this Court is only appraised of the Board's disagreement with certain findings, but has no affirmative basis upon which to support the Board's judgment. The Board does not spell out sufficient basis for its ultimate findings.

III.

THE BOARD'S ULTIMATE FINDING OF FACT THAT THE CARRIER'S CERTIFICATE MUST BE AMENDED BY ADDING SHEBOYGAN AS A HYPHENATED POINT TO THE PRESENT MANITOWOC POINT IS NOT SUPPORTED BY ITS BASIC FINDINGS

A.

The Board Has the Authority to Amend the Carrier Certificate

The Board made the following material ultimate findings:

"Accordingly, in view of the foregoing and all the facts of record, we find:

1. That the public convenience and necessity require the amendment of the certificate of North Central Airlines, Inc., for route 86 so as to re-designate Manitowoc, Wis., an intermediate point on segment 2, as Manitowoc-Sheboygan, Wis. (to be served through Manitowoc Municipal Airport)." (TR. 2947)

3. That the application of Sheboygan County, Wis., for scheduled air service at Sheboygan County Airport should be denied."

There is no question that the Board has statutory authority to require modifications and changes in an air carrier certificate. See Section 1371 (e) (1). However, the Board's supervisory power in this regard must be based on the public convenience and necessity. The Board must, in exercising its powers, base its considerations "in the public interest, and in accordance with the public convenience and necessity." (See Sec. 1302 Appendix B)

B.

The Board's Logic is Not Sound with Regard to the Above Findings

The record clearly demonstrates that the Sheboygan traveler now has and always has had available to him the service provided at the Manitowoc Airport. ^{9/} Basically, the Board is making a finding "that the public convenience and necessity" require something. This required something has been definitively stated by the Board to be the adding of a "hyphen" and the proper noun "Sheboygan" to an air carrier certificate.

The Board properly felt and found that the Sheboygan traveler is entitled to air transportation and in the public convenience and necessity something must be done about this situation. However, Sheboygan now has what the Board gave Sheboygan to meet its need and has always had that, to-wit the service at Manitowoc. Logically, it must be concluded, either that the

^{9/} It should be noted that the fact that said service was not used by the Sheboygan Traveler is established in the record and underscores the inconvenience factors, the backhaul problems, and the directional flow of the Sheboygan traffic.

public convenience and necessity requires nothing ^{10/}or, in the alternative, that the public convenience and necessity require service to the Sheboygan traveler.

Logically, the board cannot conclude that the public convenience requires something which in fact now exists. This is, however, what the Board's ultimate finding does. To say that the public convenience and necessity demands are being met by adding a hyphen and the proper noun to an air carrier certificate is a theoretical expostulation which has no basis in practical fact. This Board has properly found that the Sheboygan air traveler has some needs not now being met! These needs are not met by the ultimate conclusion of amending the carrier's certificate as drawn by this Board. The Board logically must either conclude that the Sheboygan air traveler has no needs not now being met, or in the alternative, it must conclude that Sheboygan's travelers need service at their field. No other conclusions flow from the basic facts.

The findings of an administrative agency which are inconsistent with other findings in the same opinion do not establish sufficient grounds upon which an appellate court may perform its task of judicial review. Greensboro-High Point Authority v. CAB 97 U.S. App. D.C. 358, 231 F. 2d 517 (1956).

C.

The Ultimate Fact as to the Public Convenience and Necessity which Flows from the Basic Facts is that the Public Convenience and Necessity Requires Air Service to the Sheboygan Traveler at the Sheboygan Airport

The Board, by its ultimate findings, has placed itself on the horns of a dilemma, either finding number 1 is nonsequitur or finding number 3 is nonsequitur. The repeated finding by the Examiner based on the entire record would seem to be the answer to this dilemma. His findings of fact concluded that the public convenience and necessity require something and that something is service to Sheboygan at its own airport. (It now has service at the airport of others.) The fact that this contention was supported of record

^{10/} This is the Board's third ultimate finding (to-wit: that the application of Sheboygan County, Wisconsin, for scheduled air service at the Sheboygan County Airport should be denied. (TR. 2947)

by the State of Wisconsin is summarily dismissed by the Board with a footnote, (TR. 2946). None-the-less, the evidentiary matters of record support only the finding for service at Sheboygan.

IV.

PETITIONER WAS DEPRIVED OF DUE PROCESS BY
THE AFTER THE FACT APPLICATION OF THE
REGIONAL AIRPORT POLICY TO ITS PETITION

A.

The Board Acted Outside of Its Authority
When It Established the Regional Airport Policy

An administrative agency's powers are limited to those granted by Statute. Agencies have no powers which are not specifically granted it, or which cannot be fairly implied from the language of their enabling statute. The authority of the Board is spelled out in the "Declaration of Policy" of the Board in Section 102, (See App. B). It has the responsibility of "the regulation of air transportation . . ." but said responsibility must be carried out in the public interest "in accordance with the public convenience and necessity". The Board cannot establish standards or norms contrary thereto.

In establishing a "regional airport policy" the Board wisely was concerned about government subsidy, but in its concern it overextended its authority. It has established for the new applicant for service a different standard - a standard of geographic location. The Board expressed concern about service to "two separate airports that are reasonably adjacent" (see App. A for full text of policy) but no definitive guide lines as to what these terms meant were established.

In this proceeding, the "regional" issue was predetermined by the Board by its Remanding Order (TR. 1273 et seq) and it did thereby in a manner predetermine the issue of petitioner's application for service. A case must not be prejudiced by the Board that is going to hear and decide it. Pan American World Airways, Inc. v. Boyd, et al. App. D.C. 1962 207 F. Supp. 152 (1962). The Board, on a basis not of record, decided that Sheboygan should be pitted against Manitowoc and Two Rivers in its application for "air" service. The Board could just as well determine that Sheboygan was in

the Milwaukee "regional airport" scheme or that Manitowoc was in the Green Bay regional plan and in this fashion it could and can always predetermine as between the parties the critical issue of public convenience and necessity. 11/

Sheboygan's relationship to any number of adjacent communities could just as well have been considered; in fact, it was argued before the Board that Sheboygan and Manitowoc did not fit the regional airport concept and if anything, Sheboygan was in the Milwaukee region and Manitowoc was the airport for the Manitowoc-Two Rivers region or that it was in the Green Bay region. The record is devoid of any effort by the Board to first search the area in the regular administrative procedural manner. There is merely a conclusion that Manitowoc and Sheboygan should together meet the issue of who should have airline service. The Board, through this policy, has set up a procedure whereby the application of an untested petitioner is placed against a community which, as in this case, was more than meeting the use needs of the industry. 12/

11/ It can be argued that the Board did predetermine the public convenience and necessity issue: Its traffic considerations are all based on Sheboygan's proximity to Milwaukee (such as no need for backhaul, adequate surface transportation, proximity, etc.) while at the same time Manitowoc and Two Rivers located in a comparable proximity to the Green Bay Airport are not expected to engage in the backhaul situation, etc. In fact, the Board's emphasis on this matter is noted that in its Order its first sentence is foot-noted as follows:

"Sheboygan and Manitowoc are located between Green Bay and Milwaukee, Wis. Sheboygan lies about 28 miles south of Manitowoc, and the distance between their airports is about 30 miles. Sheboygan and Manitowoc are situated approximately 75 and 47 road miles, respectively, south of the airport at Green Bay, and about 57 and 86 road miles, respectively, north of the airport at Milwaukee." (TR. 2932)

12/ The Examiner found that Manitowoc ranked 294th among the 479 cities in the country receiving only local service in terms of traffic generation and among the 74 cities served by North Central it ranged 49th. (TR. 2670) The standard to be applied to the lower 293 points should be the same as that applied to Sheboygan and if this projection of "regional" continues the local air service carrier will be a thing of the past with only "Trunk" carriers remaining. If this is to be the policy of the nation, it must be legislated by Congress and not alone order the guise of "public convenience and necessity".

A Change in Administrative Policy Cannot
be Applied Retroactively

The fundamental unfairness of retroactive action, both in the Legislature and the Courts is discussed by the Court in the case of Leedom v. International Brotherhood of Electrical Workers, App. D.C. 1959, 278 F. 2d 237, pg. 240:

"Antipathy to retroactive lawmaking by legislatures and courts has deep historical roots. It is only by comparing the problem of retroactivity in those areas with the comparatively new area of administrative law that I am able to find special considerations which adequately support our conclusion.

The fundamental unfairness of retrospective legislation is recognized in American constitutional theory. Although the prohibition against ex post facto law bars only retrospective criminal statutes, Calder v. Bull, 1798, 3 Dall. 386, 3 U.S. 386, 1 L. Ed. 648, the courts have often reached similar results with civil legislation through the impairment of contracts, and due process clauses. The vice inherent in retroactivity is, of course, that it tends to destroy predictability and to undercut reliance--both important aims of the law."

The Supreme Court, in considering this matter, set up for the administrative agencies the test of balancing the evils of retroactivity against the result when it said:

"(The evils of retroactivity) must be balanced against the mischief of producing a result which is contrary to a statutory design or to legal and equitable principles. If that mischief is greater than the ill effect of the retroactive application of a new standard, it is not the type of retroactivity which is condemned by law."

Securities and Exchange Commission v. Chenery Corp., 1947, 332 U.S. 194, 67 S. Ct. 1575, 1580, 91 L. Ed. 1995; Addison v. Holly Hill Fruit Products, 1944, 322 U.S. 607, 622, 64 S. Ct. 1215, 88 L. Ed. 1488. ^{13/} The matter of retroactivity and its evils was fully discussed in Leedom v. International Brotherhood (infra) and N.L.R.B. v. Guy F. Atkinson Company (9th Cir. 1952) 195 F. 2d, 141.

^{13/} Although Chenery and Addison were not predicated upon constitutional considerations, they formulate, with respect to retroactive law, the traditional due-process analysis of balancing competing interests. See e.g., Nebbia v. People of State of New York, 1934, 291 U.S. 502, 525, 54 S. Ct. 505, 78 L. Ed. 940.

The procedure and application of the "regional airport" policy is, in fact, a kind of "jerrymandering" of the public convenience and necessity. The Courts have pointed out that an administrative agency must be neutral! As phrased in the case of Interstate Commerce Commission v. Chicago R. I. and P.R. Company 218 U.S. 88:

"From whatever standpoint the powers of the Interstate Commerce Commission may be viewed, they touch many interests and may have great consequences. They are expected to be exercised in the coldest neutrality." (Emphasis supplied)

The entire concept, when placed in the light that this is a regulatory agency which has control over an industry that has been granted a monopoly through the restriction of competition the evidence of the arbitrary and abusiveness of the authority becomes more apparent. 14/

Where the Board makes a departure from norms which it has established in prior cases, its findings have been held to be insufficient. Secretary of Agriculture v. U.S., et al., 347 U.S. 645 (1945); McKay v. Wahlenmaier 96 U.S. App. D.C. 313, 226 F. 2d 35 (1955). Where an administrative agency adopts different standards for similar situations it acts arbitrarily. NLRB v. Mall Tool Company, 119 F. 2d 700 (7th Cir. 1941); Hall et al. v. F.C.C., 99 U.S. App. D.C. 86, 237 F. 2d 567 (1956). The Board in this case has made such inconsistent findings.

14/ In fairness to the Board, it should be noted that the Board has since its order in this proceeding properly issued an investigation to determine the issue of public convenience and necessity and the certificate of North Central as it applies to the points of service in Wisconsin. In effect all of the State of Wisconsin except the extreme southeastern portion and one or two points in the extreme western portion are part of this proceeding (Board Order No. E-18533) and it has formally instituted area investigations in other states. These investigations are not limited to two particular points, but are in fact, broad geographic areas under inquiry, and Manitowoc and Two Rivers and Sheboygan should have also been included in this type of investigation, rather than precluded by the Board's Remand Order.

CONCLUSION

This case is of importance, primarily to the parties, of course, but also to the entire airline industry. It is a case of first impression concerning the regional airport concept for the airline industry; a concept of far reaching ramifications. The question of whether the Board met the test of substantial evidence, whether the Board met the test of sufficient findings, and whether the Board fell into the error of poor logic and therefore had inadequate findings, are not new questions for the Courts. They are, however, questions of critical importance to the particular parties to this proceeding and the petitioner respectfully urges that this Court find that the administrative procedure functions were not properly carried out and that the error of prejudice was committed against the petitioner.

The matter of the denial of due process and more particularly the retroactive application of administrative policy is met where judicial decree is still a virgin area. Petitioner contends herein that it was denied the test of due process as the same applies to administrative agencies. For the above reasons, (all as are more particularly spelled out in the herein argument) the petitioner respectfully prays that your Honorable Court review Order E-19695 issued by the Civil Aeronautics Board on June 17, 1963, and upon such review set aside the said Order in so far as that Order:

1. Denies the application of Sheboygan County Wisconsin, for scheduled air service at the Sheboygan County Airport.
2. Finds that the public convenience and necessity require the amendment of the certificate of North Central Airlines, Inc., for route 86 so as to re-designate Manitowoc, Wis., an intermediate point on segment 2, as Manitowoc-Sheboygan, Wis. (to be served through Manitowoc Municipal Airport).

Petitioner prays that the Court remand this case to the Board for further proceedings upon and appropriate consideration of petitioner's applications mentioned above.

Respectfully submitted,
ALEXANDER HOPP
Attorney for Petitioner

Court House
Box 128
Sheboygan, Wisconsin

November, 1963

APPENDIX A

Regional airport policy statement as issued on May 2, 1961 by the administrator of the Federal Aviation Agency and the Chairman of the Civil Aeronautics Board:

"The Federal Aviation Agency and the Civil Aeronautics Board have become increasingly concerned over the establishment of separate air carrier airports in cities sufficiently close to be served through one airport. The use of two or more airports by the scheduled airlines in serving an area in many instances tends to diminish the services to each airport and increase the cost of air transportation. The concentration of the services provided to an area through the use of one airport will often improve the service offered by both scheduled airlines and general aviation. However, this would never be accomplished in such a way as to compromise the safety of either scheduled air transportation or general aviation.

"From the point of view of the Civil Aeronautics Board, scheduled airline service into two separate airports that are reasonably adjacent often results in a deterioration of the quality of airline schedules to the area. In many cases, without substantial inconvenience to the air passengers, they could be served through a single airport, resulting in improved scheduling, better quality of service through the use of larger equipment, and an overall improvement in air service to the area.

"The Federal Aviation Agency and the Civil Aeronautics Board agree that the use of a single airport serving adjacent communities, where such action may result in a saving both to the Federal Government and the locality served, as well as improving the air service to the area, should be an increasingly important factor in considering applications for federal funds for airport construction purposes and applications for certified airline service."

APPENDIX B

The pertinent provisions of the Federal Aviation Act of 1958, 72 Stat. 731, as amended, 49 U.S.C. 1301 et seq., are:

* * * *

DECLARATION OF POLICY: THE BOARD

Sec. 102. (72 Stat. 740, 49 U.S.C. 1302) In the exercise and performance of its powers and duties under this Act, the Board shall consider the following, among other things, as being in the public interest, and in accordance with the public convenience and necessity:

(a) The encouragement and development of an air-transportation system properly adapted to the present and future needs of the foreign and domestic commerce of the United States, of the Postal Service, and of the national defense;

(b) The regulation of air transportation in such manner as to recognize and preserve the inherent advantages of, assure the highest degree of safety

in, and foster sound economic conditions in, such transportation, and to improve the relations between, and coordinate transportation by, air carriers;

(c) The promotion of adequate, economical, and efficient service by air carriers at reasonable charges, without unjust discriminations, undue preferences or advantages, or unfair or destructive competitive practices;

(d) Competition to the extent necessary to assure the sound development of an air-transportation system properly adapted to the needs of the foreign and domestic commerce of the United States, of the Postal Service, and of the national defense;

(e) The promotion of safety in air commerce; and

(f) The promotion, encouragement, and development of civil aeronautics.

* * * *

Section 1371. Certificate of public convenience and necessity -- Essentiality.

(a) No air carrier shall engage in any air transportation unless there is in force a certificate issued by the Board authorizing such air carrier to engage in such transportation.

Application

(b) Application for a certificate shall be made in writing to the Board and shall be so verified, shall be in such form and contain such information, and shall be accompanied by such proof of service upon such interested persons, as the Board shall by regulation require.

Issuance

(d) (1) The Board shall issue a certificate authorizing the whole or any part of the transportation covered by the application, if it finds that the applicant is fit, willing, and able to perform such transportation properly, and to conform to the provisions of this chapter and the rules, regulations, and requirements of the Board hereunder, and that such transportation is required by the public convenience and necessity; otherwise such application shall be denied.

Terms, conditions, and limitations

(e) (1) Each certificate issued under this section shall specify the terminal points and intermediate points, if any, between which the air carrier is authorized to engage in air transportation and the service to be rendered; and there shall be attached to the exercise of the privileges granted by the certificate, or amendment thereto, such reasonable terms, conditions, and limitations as the public interest may require.

Alteration, amendment, modification, suspension, or revocation

(g) The Board upon petition or complaint or upon its own initiative, after notice and hearings, may alter, amend, modify, or suspend any such certificate, in whole or in part, if the public convenience and necessity so require, or may revoke any such certificate in whole or in part, for intentional failure to comply with any provision of this subchapter or any order, rule, or regulation issued hereunder or any term, condition, or limitation of such certificate: Provided, That no such certificate shall be revoked unless the holder thereof fails to comply, within a reasonable time

to be fixed by the Board, with an order of the Board commanding obedience to the provision, or to the order (other than an order issued in accordance with proviso), rule, regulation, term, condition, or limitation found by the Board to have been violated. Any interested person may file with the Board a protest or memorandum in support of or in opposition to the alteration, amendment, modification, suspension, or revocation of the certificate.

Section 1486. Judicial review -- Orders subject to review; petition for review

(a) Any order, affirmative or negative, issued by the Board or Administrator under this chapter, except any order in respect of any foreign air carrier subject to the approval of the President as provided in section 1461 of this title, shall be subject to review by the courts of appeals of the United States or the United States Court of Appeals for the District of Columbia upon petition, filed within sixty days after the entry of such order, by any person disclosing a substantial interest in such order. After the expiration of said sixty days a petition may be filed only by leave of court upon a showing of reasonable grounds for failure to file the petition theretofore.

Venue

(b) A petition under this section shall be filed in the court for the circuit wherein the petitioner resides or has his principal place of business or in the United States Court of Appeals for the District of Columbia.

Conclusiveness of findings of fact; objections

(e) The findings of facts by the Board or Administrator, if supported by substantial evidence, shall be conclusive. No objection to an order of the Board or Administrator shall be considered by the court unless such objection shall have been urged before the Board or Administrator or, if it was not so urged, unless there were reasonable grounds for failure to do so.

(The above were formerly portions of Section 401.) (52 Stat. 987, as amended by 56 Stat. 265, 61 Stat. 449, 49 U.S.C. 481)

FEDERAL ADMINISTRATIVE PROCEDURE ACT

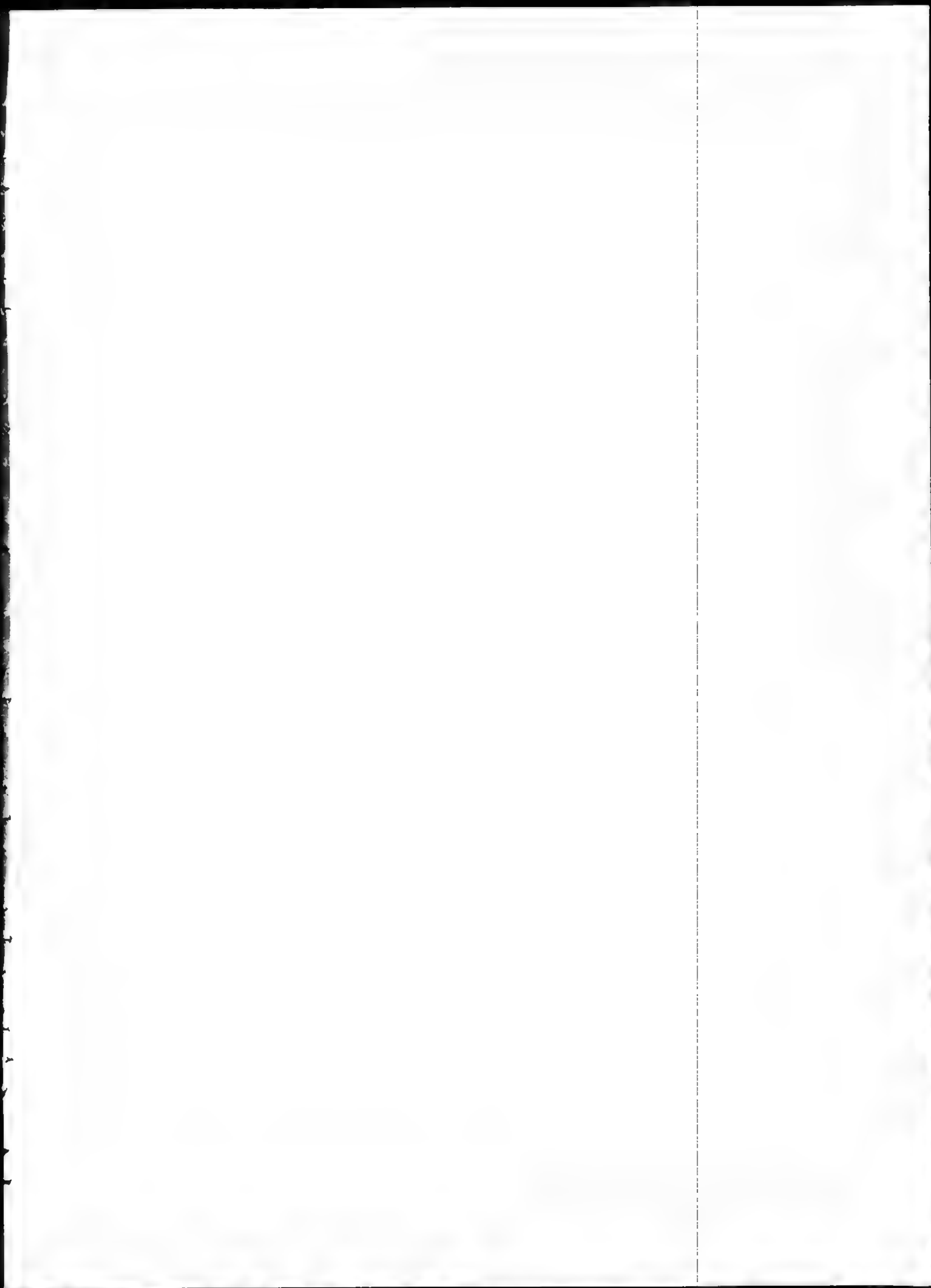
Sec. 10 (60 Stat. 243, 5 U.S.C. Sec. 1009). Except so far as (1) Statutes preclude judicial review of (2) agency action is by law committed to agency discretion.

(a) Right of review. -- Any person suffering legal wrong because of any agency action, or adversely affected or aggrieved by such action within the meaning of any relevant statute, shall be entitled to judicial review thereof.

(b) Form and venue of action. -- The form of proceeding for judicial review shall be any special statutory review proceeding relevant to the subject matter in any court specified by statute or, in the absence or inadequacy thereof, any applicable form of legal action (including actions for declaratory judgments or writs of prohibitory or mandatory injunction or habeas corpus) in any court of competent jurisdiction. Agency action shall be subject to judicial review in civil or criminal proceedings for judicial enforcement except to the extent that prior, adequate, and exclusive opportunity for such review is provided by law.

(e) Scope of review. -- So far as necessary to decision and where presented the reviewing court shall decide all relevant questions of law, interpret constitutional and statutory provisions, and determine the meaning or

applicability of the terms of any agency action. It shall (A) compel agency action unlawfully withheld or reasonably delayed; and (B) hold unlawful and set aside agency action, findings, and conclusions found to be (1) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law; (2) contrary to constitutional right, power, privilege, or immunity; (3) in excess of statutory jurisdiction, authority, or limitations, or short of statutory right; (4) without observance of procedure required by law; (5) unsupported by substantial evidence in any case subject to the requirements of sections 7 and 8 or otherwise reviewed on the record of any agency hearing provided by statute; or (6) unwarranted by the facts to the extent that the facts are subject to trial de novo by the reviewing court. In making the foregoing determinations the court shall review the whole record or such portions thereof as may be cited by any party, and due account shall be taken of the rule of prejudicial error.



BRIEF FOR RESPONDENT

IN THE
UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 18,104

SHEBOYGAN COUNTY, a Municipal
Corporation, Petitioner,

v.

CIVIL AERONAUTICS BOARD, Respondent,

MANITOWOC COUNTY, a Municipal
Corporation, Intervenor.

ON PETITION FOR REVIEW OF ORDERS OF THE
CIVIL AERONAUTICS BOARD

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United States Court of Appeals
for the District of Columbia Circuit

JOHN M. STUHLREHER,
Attorney,
Civil Aeronautics Board.

FILED JAN 6 1964

Nathan J. Paulson

(i)

COUNTERSTATEMENT OF QUESTIONS PRESENTED

In respondent's view, the questions presented are:

1. Whether the Board's so-called "regional airport policy" is in excess of its statutory authority, and, as applied here, deprived Sheboygan of procedural due process.
2. Whether the Board's findings adequately disclose the bases for its action in determining that the public convenience and necessity required the combined Manitowoc/Sheboygan, Wis. area be served through the Manitowoc Airport.
3. Whether the various specific findings assailed by petitioner are supported by substantial evidence.

(iii)

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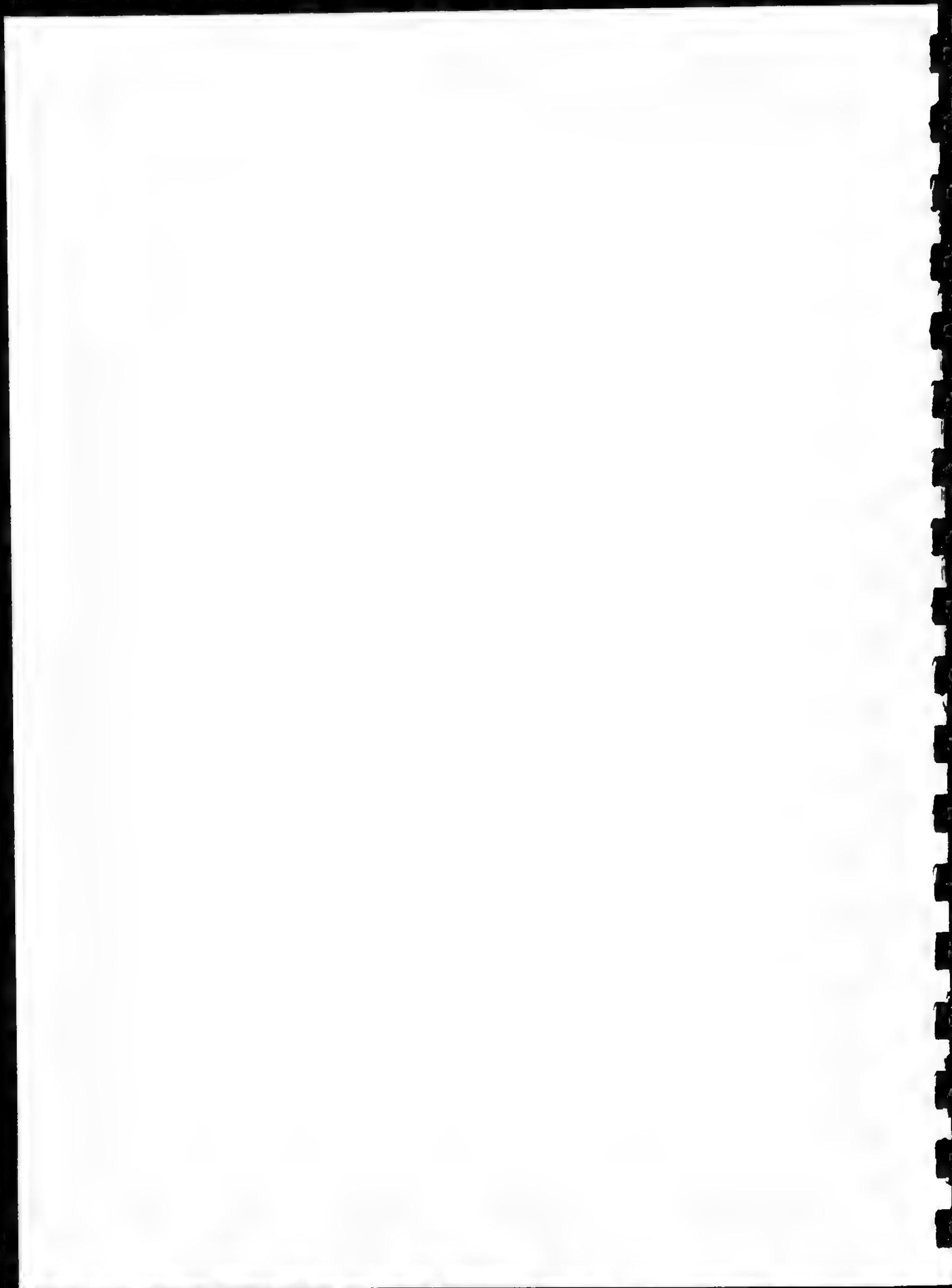
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* Cases chiefly relied upon are marked by asterisks.



IN THE
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SHEBOYGAN COUNTY, a Municipal
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ON PETITION FOR REVIEW OF ORDERS OF THE
CIVIL AERONAUTICS BOARD

BRIEF FOR RESPONDENT

COUNTERSTATEMENT OF THE CASE

Petitioner (Sheboygan) seeks review of an order of the Board (E-19695, June 17, 1963 (Tr. 2931)) which denied its application for air service, but altered the designation of North Central Airline's certificate under which it provides service to the Manitowoc County Airport from "Manitowoc, Wisconsin" to "Manitowoc-Sheboygan, Wisconsin (to be served through the Manitowoc County Airport)" (Tr. 2947). Review also is sought of the Board's order denying reconsideration (E-19833, July 19, 1963 (Tr. 2988)).

The Board's proceeding was instituted on July 28, 1958 by the filing with the Board by Sheboygan of an application for scheduled

airline service by a local service carrier at the Sheboygan County Airport (Tr. 1). Since North Central is the only local service carrier conducting operations in that area, the issue involved was whether North Central, which opposed the request, should be required to provide the service. The Board's hearing examiner concluded that North Central's certificate should be amended to include Sheboygan as a new point.

In so doing, however, he pointed out that, in view of subsidy and other considerations, a serious question existed as to whether or not closely located or adjacent cities would not be better served through a common airport (Tr. 1166²). He also adverted to statements by the Board's Chairman concerning the over-all problem, and recognized that Sheboygan, Manitowoc and other cities in the general area perhaps should be served through one airport (Tr. 1166).^{1/} However, he concluded that the issue of service for Sheboygan through an airport other than its own was not involved in this proceeding (Tr. 1168).

When the case reached the Board, the Board concluded that it should be remanded to the hearing examiner for further proceedings.

^{1/} The examiner did not then specifically advert to the so-called "regional airport policy" as to which petitioner complains, although the CAB-FAA statement involved was issued on May 2, 1961, after the close of the hearings but prior to submission of briefs to the hearing examiner. That statement was a joint press release (Pet. Br., App. A, p. 29) dealing generally with the construction of, or new service to, airports where adjacent communities were involved, and pointing out in that statement that "in many cases, without substantial inconvenience to air passengers, these communities could be served through a single airport resulting in improved scheduling, better quality of service through the use of the larger equipment, and over-all improvement of air service to the area."

on this issue. Accordingly, the Board directed further hearings on the questions of whether it should alter North Central's certificate so as (a) to designate Sheboygan and Manitowoc as a single point for service, and (b) to designate the airport through which the service should be provided (Tr. 1278). There remained in the proceeding the initial issue of whether Sheboygan should be certificated as a separate point.

After the further hearings, the Board's examiner concluded that there should be service to only a single airport, largely because of the savings in operating costs involved and because the FAA would not provide federal funds to assist in the necessary improvements of more than one of the airports involved (Tr. 2695).^{2/} He concluded that the airport to be utilized should be Sheboygan, in that various factors of traffic generation (with resultant carrier revenue), improved service, and relative passenger convenience pointed to the selection of that airport. The Board, however, disagreed with these conclusions. On the basis of the same data, it concluded that, if there was to be service to only one airport, the service should continue at Manitowoc. It further concluded that the public convenience and necessity did not require the certification of Sheboygan to be separately served (Tr. 2943), but it redesignated Manitowoc as a hyphenated point with

^{2/} Both the Manitowoc and Sheboygan airports required improvements in order to accommodate Convair aircraft. The cost of improving the Manitowoc airport was estimated to be \$554,000, and that of improving the Sheboygan airport, \$432,000 (Tr. 2664).

Sheboygan "because of the benefits that should result from the use of the names of both" cities (Tr. 2933).^{3/}

In approaching the problem the Board, in accordance with its usual practice, adopted the findings in the examiner's reports except to the extent that it noted disagreement with them (Tr. 2933). These reports had set forth in considerable detail the factual situation involved, and, as previously noted, the Board's disagreement was in the area of the inferences and conclusions to be drawn therefrom.^{4/}

The Board first considered the question of which airport should be the one to receive service if, as the examiner had concluded, service

^{3/} The examiner had pointed out (Tr. 2687) that a city's designation as a hyphenated point has advantages in that it constitutes a representation of air service to the city involved, and had proposed the same hyphenated designation but with Sheboygan as the one airport. Moreover, the Board in previous decisions has stated that hyphenation has the advantages of incorporating a point in the national air transportation system, thus imparting to all persons interested, i.e., airlines, travel agents, shippers and the travelling public, the fact that air transportation is available to the point

For example, see Additional California-Nevada Service, 10 C.A.B. 405, 426 (1949); Peninsula Airport Commission, Route Redesignation, 18 C.A.B. 686, 692 (1954); Service to Springfield, Mass., 11 C.A.B. 747, 750 (1950).

^{4/} The record in this case, as in other similar route proceedings before the Board, consisted largely of undisputed factual data and estimates and testimony setting forth the views of the parties as to the conclusions to be derived therefrom. The data related to such matters as the physical aspects of the airports and aircraft operations; the past experience and operating costs of North Central; the various economic features of the communities in terms of population, income and the like; existing and proposed transportation facilities; and the statistics relating to the movement of passengers by air (including traffic to and from the areas here involved) contained in the Board's standard traffic surveys. The examiner's detailed findings with reference to this data are set forth at Tr. 2661-2681.

should be provided to only one. It did not disturb the examiner's conclusions that there was little difference between the airports themselves, and that either was readily accessible to the residents of the other community.^{5/} Similarly, the Board accepted the examiner's conclusion (Tr. 2935) that there were no significant differences between the communities with respect to population and economic indices, principal communities of interest, highway and surface transportation facilities, and the directional flow of their traffic (southward to Milwaukee and Chicago). The Board did disagree, however, with the examiner's key findings which impelled his conclusion that Sheboygan should be selected.

The examiner had found that Sheboygan would be the better traffic producer, but the Board concluded that Manitowoc would be (Tr. 2936). The Board found that, in view of the similarity in the economic indices of the two communities, Sheboygan at best could be expected to generate approximately the same amount of traffic as Manitowoc. In this connection, it found the examiner's estimate of Sheboygan's traffic potential

^{5/} The town of Sheboygan lies some 28 miles south of Manitowoc and between Manitowoc and Milwaukee. The airports themselves are some 30 air miles apart. The Sheboygan airport lies six miles west of that city, whereas the Manitowoc airport lies three miles north of Manitowoc. Thus, a trip from Manitowoc to the Sheboygan airport entails a journey of some 38 road miles with a driving time of 50 minutes, whereas a trip from Sheboygan to the Manitowoc airport is a little over 30 road miles and requires some 45 minutes in driving time (Tr. 2663, 2666-7).

Sheboygan is 57 miles from Milwaukee (Tr. 2666), and 130 miles from Chicago (Tr. 2673). Also, the Green Bay airport (where scheduled air service is available) is some 47 miles to the north of Manitowoc. See, in this connection, the map set forth at Tr. 2084.

to be overly optimistic in that he had relied, without adjustments, upon a forecast formula devised by the Board's Bureau of Economic Regulation which, when applied to Manitowoc, produced a traffic figure well in excess of the actual experienced volume (Tr. 2937).^{6/} The Board was of the further view that, contrary to the examiner's conclusion, a substantial number of the Sheboygan passengers would continue to utilize surface transportation to Milwaukee and Chicago for the purpose of obtaining air service, rather than explaining at Sheboygan (Tr. 2937). Similarly, the Board was of the opinion that, in the event of a change of airports, Sheboygan would not retain the bulk of the Manitowoc traffic. Rather, the Board's view was that the southbound Manitowoc-Milwaukee passengers could be expected to utilize surface transportation to Milwaukee, rather than proceeding 38 miles to the Sheboygan airport and then embarking upon a 57-mile flight to Milwaukee, and that some Manitowoc-Chicago passengers would likewise proceed via surface means. Similarly, other Manitowoc traffic could be expected to proceed to Green Bay for connecting air service, some 47 miles from Manitowoc (Tr. 2940).^{7/}

Since the Board disagreed with the examiner's traffic forecasts, it also disagreed with his revenue forecasts, and found them to be

^{6/} The forecast as applied to Manitowoc produced 9,300 passengers, whereas the actual experienced figure was slightly under 6,000 (Tr. 2935, 2937).

^{7/} The record contains considerable testimony in connection with the loss of potential Sheboygan air traffic because of the close proximity to Milwaukee (Tr. 2191-4; 2202, 2224, 2226, 2247, 2270, 2278, 2430); and to the effect that only a small percentage of traffic now using Manitowoc airport would use Sheboygan, if it were selected as the area airport (Tr. 2200, 2222-3, 2226-33).

substantially overstated. Moreover, the Board pointed out that, not only would Manitowoc have the larger volume of traffic, but such traffic would be more valuable to the carrier since it is predominantly to and from the south and since North Central could expect a longer haul with greater revenue. The Board also concluded that Manitowoc's air cargo traffic would be largely lost through the use of the Sheboygan airport, a type of traffic as to which Manitowoc was concededly superior to Sheboygan (Tr. 2938). Consequently, the Board's conclusions were that more revenue would inure to North Central through continuing service at Manitowoc than would be the case if the service was transferred to Sheboygan, and hence that less subsidy support would be required if the operation continued at Manitowoc.

The Board also considered the questions of passenger convenience and prospects of improved service through changing the airports, factors also relied upon by the hearing examiner. The Board recognized that the use of the Manitowoc airport by Sheboygan passengers to and from the south required a backhaul, and that such passengers would be required to make the backhaul or proceed by surface transport to and from Milwaukee. However, the Board found that, since most of the Sheboygan traffic was to and from the south, no need existed for the backhaul in view of the adequate surface facilities between Sheboygan and Milwaukee (Tr. 2941). Also, some inconvenience could be expected from the use of either airport by the residents of the other locality, and the Board concluded that the inconvenience to the Sheboygan passengers was not enough to justify

the transfer (Tr. 2942). Apart from the finding that Manitowoc would be the greater traffic producer, the Board also found that, even if Sheboygan should obtain the traffic which the examiner estimated, the volume would not be enough to provide more trips to an area airport at Sheboygan than the two daily frequencies being provided at Manitowoc (Tr. 2942).

The Board further noted that scheduled airline service had been provided to Manitowoc since 1953, whereas such service had never been received by Sheboygan; that Manitowoc only recently had spent some \$227,000 for improvements in reliance on North Central's service; and that it was committed to undertake other improvements necessary to enjoy future Convair service, whereas the record failed to indicate that Sheboygan had committed itself to undertake such improvements (Tr. 2934-35). The Board concluded that a balancing of these various factors pointed to the continuation of service at Manitowoc rather than a shifting of the service to Sheboygan (Tr. 2943).

The Board then turned to the question of whether, despite its decision to retain service at Manitowoc, it nonetheless should also direct service to Sheboygan as a separate point, and concluded that it should not do so. Rather, it found that Sheboygan's air service requirements could be satisfied either through the use of the Manitowoc or Milwaukee airports, and noted that surface transportation to these airports is "reasonably adequate" (Tr. 2943). In so finding, it took into account the contentions of lack of coordination in surface schedules and the disadvantages of traveling by

private automobile, but concluded that these inconveniences were not so substantial or exceptional as to derogate from the basic sufficiency of the surface facilities (Tr. 2944). The Board also pointed out that subsidy support would be required for service at Sheboygan (Tr. 2944-45); and that the certification would produce other undesirable results, in that it would add yet another stop for North Central with inconvenience to other traffic on the carrier's system (Tr. 2945); would increase the carrier's operating costs; would hamper its efforts to provide the area with more modern Convair aircraft; and would require a substantial outlay of public funds for the improvement of the Sheboygan airport (Tr. 2945-46).^{8/}

STATUTES INVOLVED

Pertinent portions of the Federal Aviation Act of 1958 are set forth in the appendix, infra, pp. 31 to 37. Other statutory provisions are cited or quoted in their appropriate place in the text of this brief.

SUMMARY OF ARGUMENT

I

There is no showing here made of a deprivation of due process by the retroactive application of a new standard by the Board to

^{8/} In its petition for reconsideration (Tr. 2957), petitioner assailed the Board's findings on the same grounds urged here, and further requested the Board to defer its decision until completion of the North Central Area Airline Service Airport Investigation, Docket 13743, which involves questions of possible consolidation of service to various other points on North Central's system at area airports. Petitioner does not challenge the Board's denial of this request for deferral, and so we say no more about it.

petitioner's application for separate airline service. Petitioner erroneously assumes that it had shown its need for certification by estimating that it would generate more traffic than the Board described in its "use-it-or-lose-it" policy, overlooking that this standard is one dealing with whether an authorized point should continue to receive airline service. There are other standards involved in determining whether the public convenience and necessity requires initial certification to a point, including the standard of whether service to adjacent communities should not be made to an area airport where such service could be made economically without inconveniencing the traveling public (the so-called regional airport policy). This policy is not only declaratory of the Board's responsibility under the express provisions of the Federal Aviation Act, but has been applied by the Board in many of its cases prior to the issuance of the press release here complained of. Consequently, petitioner's claim of retroactivity lacks merit. Further, assuming that the regional airport policy was a novel one, it is undisputed that a full evidentiary hearing occurred after the issuance of the Board's press release, and petitioner had a full opportunity to, and did, contest its applicability to petitioner's case.

II

A. The Board's findings fully disclose the bases for its action in determining that the public convenience and necessity required service to the combined Manitowoc-Sheboygan area be made through the

existing airport at Manitowoc. Manitowoc would produce more traffic than Sheboygan, the carrier would be financially better off at Manitowoc than at Sheboygan, and the combined area would receive improved service at an appropriate future time by way of Convair equipment. These basic findings fully support the Board's action. Furthermore, since Sheboygan's air transportation needs could be presently met at the airports at Manitowoc and Milwaukee, and its separate certification would not result in its generation of its estimated traffic because of its proximity to Milwaukee, with a resultant adverse impact on the carrier's revenues and an increase in its subsidy needs, the Board correctly concluded that the public convenience and necessity required the denial of its application for separate service.

B. Finally, petitioner's contentions of error in the specific Board findings are without merit.

1. The Board, in comparing Sheboygan and Manitowoc, contrary to petitioner's assertions, did compare the Sheboygan and Manitowoc regions. This is made plain by the Board's adoption of its examiner's finding which made such a comparison and determined that there was no significant difference in terms of economic vitality between these regions, and is also evident from a reading of the Board's opinion. Further, the undisputed evidence in the record relied on by the Board and its examiner demonstrates that the communities are substantially similar.

2. The Board based its finding that the surface transportation from Sheboygan to Manitowoc and Milwaukee is reasonably

adequate on the undisputed factual data in the record dealing with this subject. Petitioner merely challenges the Board's conclusions, and contends that its citizens should not be required to suffer the inconveniences involved. But all cities cannot receive air service, the Sheboygan area passengers already utilize the existing airports, and the Board found that they would continue to do so.

3. Again, the Board correctly determined that there was a lack of need for a substantial backhaul on the part of the Sheboygan passengers. Obviously, those Sheboygan passengers who travel to Milwaukee and Chicago by alternative modes of transportation need experience no backhaul, and this is also true of the northbound Sheboygan air passengers utilizing the Manitowoc airport. The southbound Sheboygan air passengers who enplane at Manitowoc would, as the Board found, experience a backhaul, but this factor would be inconsequential in view of the time saved by air travel to their destinations.

4. The Board's finding, that Sheboygan would be a weaker producer of air traffic than Manitowoc, is based on inferences and deductions made by the Board from undisputed data in the record and its appraisal of conflicting expert opinion and estimates. However, in this area, the Board could, on the basis of its own experience derived from its consideration of numerous applications for air service by untested points, arrive at a judgment without recourse to expert opinion, and because the judgment here arrived at is a rational one, its findings are fully supported.

5. Finally, contrary to petitioner's contention, the Board did not find that Sheboygan, if certificated for airline service, would not improve its airport. On the contrary, the Board found that Sheboygan, unlike Manitowoc, had not actually undertaken airport improvements nor had it contracted for them. The passage of a resolution by the Sheboygan County Board of Supervisors here relied on shows on its face that Sheboygan had not actually undertaken or committed itself to make airport improvements, and therefore, the Board's finding is plainly correct.

ARGUMENT

- I. The Board's "regional airport policy" did not constitute an unlawful norm, nor did it deprive petitioner of due process in this case

Petitioner's apparent premise is that it had met the standards for certification as a separate point which were in force at the time of the first hearing on its application, and that the Board thereafter formulated new standards by its statement concerning regional airports which were both substantively invalid and improperly applied on a retroactive basis. If the contentions are open^{9/} to review, they are without merit.

^{9/} Petitioner, although seeking reconsideration from the Board, at no time raised the instant contentions. Hence, they should be barred by Section 1006(e) of the Act (*infra*, p. 35). See Seaboard & Western Airlines, Inc. v. Civil Aeronautics Board, 87 U.S. App. D.C. 78, 183 F. 2d 975 (1950); Nebraska Department of Aeronautics, et al. v. Civil Aeronautics Board, 298 F. 2d 286, 293 (C.A. 8, 1962).

In the first place, petitioner erroneously appears to assume that the Board's "use-it-or-lose-it" policy^{10/} represented a standard under which new certifications for local service carriers were issued as a matter of course. On the contrary, as the Board has expressly held, it is not a standard for certification, but rather one to be applied in determining whether a service, once authorized, is being sufficiently patronized to justify its continuation.^{11/} Questions of initial certification are determined by an application of the statutory public convenience and necessity criteria, and the anticipated volume of traffic is one of several factors to be taken into account in determining whether new service requiring subsidy support shall be authorized.^{12/} All cities cannot receive scheduled airline

^{10/} For an over-all description of the Board's "use-it-or-lose-it" policy, see Nebraska Department of Aeronautics, et al. v. Civil Aeronautics Board, 298 F. 2d 286, 288-289 (C.A. 8, 1962). In essence, the Board stated that cities receiving local airline service which fail to emplane five passengers daily for a 12-month period would ordinarily be considered for suspension or deletion of service.

^{11/} In Order E-18123, served March 20, 1962 (Piedmont Local Service Area Investigation, Docket 5713, et al.), the Board held that its examiner had improperly relied on the five passengers a day enplanement requirement, embodied in its "use-it-or-lose-it" policy, as a test for certification (mimeo. op., p. 10).

^{12/} As pointed out in the Piedmont Local Service Area Investigation (infra, p. 29, fn. 20), the test of initial certification embodies elements such as the traffic generation capability of the point, its proximity to other airports, the effect such certification would have on the carrier's revenues and subsidy requirements, the isolation of the point, and the convenience of both local and through passengers (mimeo. op., pp. 10-23, inc.). These tests are invariably employed by the Board in considering whether untested points should be certificated for airline service. For example, see Seven States Area Investigation, 28 C.A.B. 680, 698-699, 701, 706-707 (1958).

service, and a claim that one city can be expected to produce as much traffic as another already receiving service does not in itself constitute grounds for certification.

Furthermore, petitioner misconceives the nature of the Board's so-called regional airport policy. The desirability of providing service to adjacent communities through the use of a single airport in appropriate circumstances is not a new concept, but rather has long been utilized by the Board.^{13/} Indeed, the contrary contention was expressly rejected by the Court of Appeals for the Fourth Circuit in Airport Commission of Forsyth County, North Carolina, et al. v. Civil Aeronautics Board, 300 F. 2d 185 (C.A. 4, 1962), wherein the Court recognized that the considerations involved in the press release complained against by petitioner represented no more than an application of the statutory public interest and public convenience and necessity criteria (see Section 102, infra, p. 31). The Court there stated:

"A comparison of this statement with the statutory criteria laid down by the Congress for the operation of the Board makes it obvious that the policy enunciated in the press release is hardly more than a statement that the Board intends to discharge its statutory obligations by serving the public interests first. At most the statement

^{13/} See, e.g., City of Dallas v. Civil Aeronautics Board, 94 U.S. App. D.C. 175, 221 F. 2d 501 (1954), cert. denied, 348 U.S. 914 (1954), wherein the Board directed service to Dallas-Fort Worth through the Fort Worth airport. See, also, the Board cases heretofore cited wherein service has been authorized to hyphenated points (supra, p. 4, fn. 3).

is a recognition of the modification of prior existing policies in the light of technical changes which have taken place in the aircraft industry during recent years. . . ." 300 F. 2d at 187.

Obviously, there is nothing unlawful in the Board's statement that adjacent communities should be served through common airports to the extent practicable.

There is no element of retroactivity here present. In the Forsyth County case, in which there were no further hearings following the issuance of the press release, the Court rejected the contention that the Board had applied its regional airport policy retroactively. And, if it be here assumed that the Board's statement constituted a new factor for consideration in certification cases, the fact remains that further hearings were ordered by the Board on this very issue and petitioner was fully heard thereon.

II. The Board's findings adequately disclose the bases for its action and are supported by substantial evidence

A. The Board's basic findings are sufficient and support its ultimate conclusions

Petitioner asserts that the Board's findings relating to the dispositive factors of "the number of people who would use air service at Sheboygan as compared to Manitowoc . . . and the financial effect of providing said service" are "so vague and obscure as to make this review perfunctory" (Br., p. 19). This contention

appears to rest on assertions that the bases for the Board's disagreement with the hearing examiner's conclusions are not sufficiently stated, and that the Board merely noted disagreement with the examiner's findings rather than spelling out affirmative grounds for its decision (Br., p. 21).

We think the bases for the Board's action to be clear, and that its opinion fully informs the Court as to the reasons for rejection ^{14/} of the examiner's conclusions and its disposition of the proceeding

^{14/} All that is required in the way of findings is that they be enough to apprise the Court of the bases for the agency's action in the light of the materials before it. See, e.g., Lake Central Airlines v. Civil Aeronautics Board, 99 U.S. App. D.C. 266, 239 F.2d 46, 49 (1956). The requirements for findings "will vary with the statutory authority invoked and the context of the situation presented" (Alabama G.S.R. Co. v. United States, 340 U.S. 216, 228 (1951)), and here there exists no necessity for a repetition of the examiner's largely undisputed findings. The Board's findings here are made with sufficient elaborateness to enable the Court to relate the evidence to them and to obtain a clear view of the bases for the Board's action. Nebraska Department of Aeronautics, et al. v. Civil Aeronautics Board, 298 F. 2d 286, 294 (C.A. 8. 1962)

While petitioner stresses the Board's disagreement with its examiner, both under Section 401 of the Federal Aviation Act (infra, pp. 32-34) and Section 8 of the Administrative Procedure Act (infra, pp. 35-36), it is the Board's duty to make its own decision. Here, if the Board's findings are fully supported, disagreement with the hearing examiner is of no consequence. See International Woodworkers of America, AFL-CIO v. National Labor Relations Board, 104 U.S. App. D.C. 344, 262 F. 2d 233, 234 (1958); F.C.C. v. Allentown Broadcasting Co., 349 U.S. 358, 364 (1955).

As detailed in the counterstatement (supra, pp. 3-9), the Board's principal findings were that: (1) Sheboygan and Manitowoc could be expected to generate approximately the same volume of traffic; (2) because of the proximity of both communities to other airports, a substantial number of Sheboygan passengers would not utilize air service at Sheboygan, and the majority of the present Manitowoc traffic similarly would not utilize the Sheboygan airport, with the net result of less traffic (and consequently less carrier revenue) at Sheboygan than at Manitowoc if service to the area was to be provided to only one airport; (3) the equities were in favor of Manitowoc as the single field to serve both communities because service already was provided there and it had proven traffic generating ability, and because no better service would be provided at Sheboygan; (4) separate service to Sheboygan was not warranted because of its proximity to other airports, because its needs could be met through service at Milwaukee and Manitowoc, and because of the subsidy costs and the adverse effect of the additional stop on North Central's other services; and (5) the Board nonetheless would alter the designation of the carrier's certificate for Manitowoc to Manitowoc-Sheboygan to provide the benefits which flow from hyphenation of cities in airline certificates.

Further, in reaching these conclusions, the Board also considered and identified the economic data involved to the extent required, and plainly indicated the precise areas of disagreement with the hearing examiner. While the Board did not make exact calculations or estimates of traffic and expense in all areas, it is not required to do so.

American Airlines v. Civil Aeronautics Board, 89 U.S. App. D.C. 365, 192 F. 2d 417, 422 (1951). We submit that the Court is not left in doubt as to any factor relating to the Board's decision.^{15/}

Petitioner contends that the Board could not properly reject the examiner's computations of the traffic generating potential of Sheboygan based on the Bureau of Economic Regulation's forecasting technique without at the same time finding this technique to be invalid. This is a non sequitur. No forecasting technique has yet been devised which does not require adjustments. The difficulty with the forecast here, as the Board noted, was (1) that the same method, when applied to the neighboring and similar community of Manitowoc, produced results wholly at variance with the actual experienced traffic, and (2) the examiner had made no adjustment for the decrease in passengers because of Sheboygan's proximity to Milwaukee. The Board was not required, in rejecting the computations in this case for these reasons, to hold that the method might not be appropriate in others.

Petitioner's final over-all attack on the Board's findings is that the Board's decision is illogical and based on inconsistent findings. It asserts that the Board found that Sheboygan's air transportation needs had to be recognized, but that its action merely preserved the status quo. However, there is no such illogicality or inconsistency in the Board's findings at all. The Board found that

^{15/} The Board, as is its practice, adopted the underlying examiner's reports (Tr. 2933) which set forth or referred to the statistical data involved and the varying positions and conclusions of the parties with respect thereto. Consequently, there is no difficulty in relating the evidence to the findings.

Sheboygan's air transportation needs are presently being met at the airports located both at Manitowoc and Milwaukee, and that Sheboygan could be benefited by being identified with the national air transportation system through the device of redesignating Manitowoc, Wisconsin^{16/} as Manitowoc-Sheboygan, Wisconsin. These findings are supplemental to each other, not contradictory. The Board's ultimate finding was that the public convenience and necessity required the hyphenation in the context of an over-all evaluation by the Board of the service needs of the general area, and this conclusion was in no way illogical.

B. The specific Board findings challenged by petitioner are correct and have record support

1. The finding that the communities are substantially similar

Petitioner asserts that the Board's findings of lack of "significant difference" (Tr. 2935) and of "substantial similarity" (Tr. 2936) between the communities of Sheboygan and Manitowoc are erroneous because the comparison made "is between the area of the two cities of Manitowoc and Two Rivers and their surrounding territories as compared to the single City of Sheboygan" (Br., p. 9). This assertion appears to rest upon the fact that several exhibits included data relating both to the City of Manitowoc and its surrounding area, whereas other exhibits relating or referring to Sheboygan included

^{16/} The Board has often engaged in this action in order to foster air transportation to several points. For example, see Additional California-Nevada Service, 10 C.A.B. 405, 426 (1949); Peninsula Airport Commission, Route Redesignation, 18 C.A.B. 686, 692 (1954); Service to Springfield, Mass., 11 C.A.B. 747, 750 (1950).

only data relating to that city. Additionally, petitioner relies on the testimony of Manitowoc's expert witness that "when I use the term 'Sheboygan,' I mean Sheboygan City unless it is clear from the context--and in some places it is, that I am referring to the county or a larger unit" (id.). Petitioner seeks to impute this same practice to the Board, and argues that, when the Board referred to the community of Sheboygan, it meant the City of Sheboygan, and when it referred to the community of Manitowoc, it meant both the city and all of its environs. Petitioner's conclusion simply does not follow from its premises.

Plainly, the Board's findings related to the over-all Manitowoc and Sheboygan regions. In any certification case, the over-all traffic generating area which logically can be served through a particular airport is the one taken into account, and one of the principal issues in this case was which airport would generate the greatest volume of traffic. Furthermore, petitioner overlooks the fact that the Board adopted the findings of its hearing examiner except as otherwise noted, and that the examiner's findings on this point formed the bases for the very Board findings assailed by petitioner.^{17/} Thus, the hearing examiner (Tr. 2668-69) compared the two areas both in terms of the cities and their environs. He found that the economic indices gave the Sheboygan region a slight advantage over the Manitowoc one. He

^{17/} Petitioner appears to concede that the examiner's treatment of the point was adequate and correct (Br., p. 10).

set forth the city and county populations and compared the two regions on both a county and "urbanized" basis. His express findings were that "Sheboygan County outranked Manitowoc County in most major indices of economic vitality," and he listed the factors involved such as population, employment, volume of trade, effective buying income, etc. His conclusion was that (Tr. 2669), "[e]xcept that by most business indices Sheboygan is slightly stronger than Manitowoc-Two Rivers and that the latter cities are growing somewhat faster in terms of such indicators as industrial employment and population, the record fails to reveal any significant difference in the economic vitality of the two regions." Plainly, it was this latter finding of lack of significant difference to which the Board referred in its findings, and, as previously pointed out, the Board adopted the underlying findings of its hearing examiner. Thus, the Board did not overlook 12,000 persons in reaching its conclusions as petitioner asserts. Rather, the Board compared the two traffic generating regions in all material respects.^{18/}

^{18/} The Board discussions in its opinion also show that it fully took into account the regions involved. It mentioned Sheboygan's forecast of passengers, and noted that the forecast was predicated upon trips made by Sheboygan County firms (Tr. 2937). Moreover, the opinion generally discusses the claims and estimates as to the number of passengers which would utilize the respective airports, a factor dependent upon regional location rather than residence within a city limit.

Moreover, the finding that there was no substantial difference ^{19/} between the two regions or communities is supported by the evidence.

^{19/} The population and the major economic indices with reference to the County of Sheboygan and those of the County of Manitowoc are as follows:

	<u>County of Sheboygan</u>	<u>County of Manitowoc</u>
Population		
(1960 U.S. Census)	86,484	75,215 (Tr. 2092)
Total Employment (1960)	33,807	28,618 (Tr. 2093)
Total Manufacturing Employment (1958)	12,689	10,491 (Tr. 2093)
Number of Manufacturing Establishments (1958)	179	237 (Tr. 2095)
Number of Wholesale Establishments (1958)	126	106 (Tr. 2097)
Number of Retail Establishments (1958)	985	958 (Tr. 2097)
Effective Buying Income Estimates (1960):	\$169,466,000	\$137,173,000 (Tr. 2111)
Per Capita	\$1,950	\$1,812 (Tr. 2111)
Per Household	\$6,468	\$6,235 (Tr. 2111)

According to Sheboygan's exhibits, the population and major economic indices of the City of Sheboygan and Manitowoc-Two Rivers are as follows (Tr. 2432):

	<u>City of Sheboygan</u>	<u>Manitowoc-Two Rivers</u>
Population (1958)	45,747	44,668
Total Industrial Employment (1958)	7,114	10,326
Number of Manufacturing Industries (1958)	126	112
Total Industrial Payroll (1958)	\$30,647,000	\$43,930,000
Number of Retail Stores (1958)	521	554
Average Number of Retail Employees (1958)	2,967	2,712
Total Retail Salaries and Wages (1958)	\$7,402,000	\$5,605,000
Number of Wholesale Establishments (1958)	85	53
Average Number of Wholesale Employees (1958)	787	530
Total Wholesale Salaries and Wages (1958)	\$3,208,000	\$2,177,000
Number of Service Trades (1958)	227	200
Number of Service Employees (1958)	575	539
Total Service Payroll (1958)	\$1,339,000	\$1,257,000

2. The finding of reasonable adequacy of surface transportation from Sheboygan to the Manitowoc and Milwaukee airports

Petitioner appears to accept (Br., p. 11) the accuracy of the Board's findings concerning the existence and the characteristics of the surface facilities between Sheboygan on the one hand, and Manitowoc and Milwaukee on the other. (Tr. 2943) Its contention is that no reasonable person could conclude that these facilities are reasonably adequate in view of the travel time involved and the fact that the same distance could be covered in much less time by aircraft.

Petitioner's contention is no more than a variation of the one that Sheboygan is entitled to air service, and that the Board erred in its conclusions concerning the amount of traffic which would utilize the Sheboygan airport. The fact of the matter is that Sheboygan presently generates a fair amount of air traffic which proceeds via either Milwaukee or Manitowoc. This very fact supports the Board's finding that the inconveniences of the surface facilities "are not so substantial or exceptional as to derogate from" their "basic sufficiency." (Tr. 2944) Moreover, the Board's judgment was that a substantial number of these passengers could be expected to continue to utilize these same facilities.

It may also be observed that the savings in travel time by air over surface transport alluded to by petitioner are more illusory than real. It is a well-known fact that more is involved in proceeding by air than the portion of the journey accomplished by aircraft. Passengers must proceed to the airport in sufficient time to board the flight involved,

and must arrive at their intermediate airport in sufficient time to make connection with a continuing flight. There is no reason to believe that the differences in time would be sufficiently consequential to constitute a real hardship, and many communities other than Sheboygan are in a similar position. It may also be noted that North Central stated a willingness to provide limousine service between Sheboygan and the two airports in question if there was a sufficient demand therefor. (Tr. 2944, 2276) Furthermore, the Board also found that future road improvements could be expected to diminish the travel time now involved. (Tr. 2943)

3. The finding that there is a lack of the need for a substantial backhaul by Sheboygan passengers

The Board found that the use of the Manitowoc airport by south-bound Sheboygan passengers requires a backhaul, but that there would be no substantial need to make this backhaul in view of the adequacy of surface transportation to Milwaukee. (Tr. 2941) Petitioner attacks this finding as an additional ground of inconsistency with the Board's conclusion that the Sheboygan passengers can be served at the Manitowoc airport. However, there is no inconsistency here present. The Board found, on the basis of the record, that a large proportion of Sheboygan's potential air passengers would travel to Milwaukee by alternative modes of transportation. (Tr. 2937) There would be no need, therefore, for these Sheboygan air passengers to make a backhaul. Furthermore, the Sheboygan passengers who would use the Manitowoc airport would do so because they would find that the expense and inconvenience of a backhaul

was a less important factor than the time saved by using air transportation to their destinations. Also, of course, if the passenger's original destination is to the north he would not require a backhaul. Consequently, the Board's finding here of no substantial need for Sheboygan passengers to make a backhaul is correct.

4. The finding that Sheboygan would probably generate less air traffic than Manitowoc

Petitioner's quarrel with the Board's finding in this area is in terms of the inferences and conclusions to be drawn from the facts, rather than with the basic facts themselves. The Board found that it was only logical to forecast that two communities enjoying the same public transportation and road systems, having the same directional flow of air traffic, and possessing similar economic vitality would generate approximately the same amount of air traffic. (Tr. 2935) However, because Sheboygan was closer to Milwaukee by some 28 miles, with a driving time of one hour and 45 minutes, the Board was of the view that a large percentage of Sheboygan's potential air passengers would use alternative modes of transportation other than air travel to reach Milwaukee (Tr. 2935-2936).

Petitioner attacks this finding on the grounds that it is unsupported by probative evidence, is conjectural, and that the Board improperly engaged in a comparative analysis between Sheboygan's estimated traffic generation capability with Manitowoc's historic one. However, it is not only logical, but it is common sense to conclude that, in the absence of other factors, neighboring communities so similar in terms of population and economic indices would generate substantially the same amount of

air traffic. There obviously is no better criterion for measuring Sheboygan's potential air traffic generation capability than comparing it with Manitowoc's experience.

To the extent that the petitioner contends that the Board's conclusions must be supported by testimony of record, such support exists in the form of expert opinion. North Central's witnesses testified that (Tr. 2270-71, 2281), based on the carrier's experience, points close to median traffic hubs fail to generate adequate air traffic because a large percentage of their air travelers prefer to travel to the larger airports by other modes of transportation. Furthermore, the Manitowoc witnesses testified that this was true of a large percentage of Manitowoc's own air travelers who used other airports and that this undoubtedly would be true of a larger number of Sheboygan's air passengers because of Sheboygan's closer proximity to Milwaukee. (Tr. 2492-93) There were, of course, conflicting estimates and opinion evidence by Sheboygan and the Board's Bureau. (Tr. 2447 2528-29) Moreover, there was similar conflicting testimony and statistical data with respect to the volume of traffic presently using the Manitowoc airport, which would utilize Sheboygan if it were designated as the area airport. (Tr. 2539-2284-2278)

In this situation, the Board found that Manitowoc's and North Central's estimates as to the amount of traffic Sheboygan, as an area airport, would produce were the more realistic because Sheboygan and the Bureau had failed to give appropriate effect to the similarity of the neighboring communities, to the proximity of Sheboygan to Milwaukee where multiple frequencies and

four-directional flights were available (Tr. 2937), and to the fact that a large percentage of Manitowoc's existing air traffic would use other airports. (Tr. 2940) This would result in Sheboygan being the weaker traffic producer. In this aspect of the case, the situation is the same as in Lake Central Airlines v. Civil Aeronautics Board, 99 U.S. App. D.C. 266, 239 F. 2d 46, 48 (1956), where the Court stated:

"As to costs of service there was a deal of competing evidence. One might characterize this branch of the case as a contest between experts who start from different premises and travel towards different conclusions; the economists in the Board's Bureau of Air Operations reached results favorable to Lake Central; the Examiner, taking into consideration other economic factors and the better prospects of North Central to develop increased traffic and revenue, thought that carrier more likely to have profitable operations, with less cost to the Government in the form of a subsidy if any were required. For this and other enumerated reasons the Board rejected the views of the Bureau and made findings favorable to North Central. Though these may not be correct in the eyes of some experts we cannot ourselves say that they are without substantial support in the record."

Moreover, there is no requirement that there be expert testimony to support the Board's conclusions in the matters here involved. Indeed, this is the precise area for the exercise of administrative judgment based on the agency's expertise. Market Street Ry. Co. v. Railroad Commission of California, 324 U.S. 548, 559 (1945); F.P.C. v. Trans Continental Gas Corp., 365 U.S. 1, 29 (1961); American Airlines v. Civil Aeronautics Board, 89 U.S. App. D.C. 365, 192 F. 2d 417, 420 (1951). The problems here are the ones customarily involved in local service cases. The Board has frequently found that the proximity of a point to cities having larger airports would severely inhibit the air traffic generation of such points, and that contrary estimates

based on ticket sales, population, and economic indices would not be reliable under such circumstances. ^{20/}

5. The finding that Sheboygan is not committed to airport improvements necessary for Convair service

In discussing the airports at Sheboygan and Manitowoc, the Board pointed out that Manitowoc had expended over \$200,000 in improving the access road to its airport "and has undertaken, or is committed to undertake, other improvements, such as a new runway, a runway extension, and a new terminal building," which would permit future Convair service (Tr. 2934). In contrast to these commitments and efforts, the Board noted that the record did not indicate that Sheboygan had undertaken or committed itself to the airport improvements necessary for Convair service (Tr. 2935). Petitioner assails this latter finding on grounds that its Board of Supervisors had adopted a resolution (Tr. 2413-14) stating that the County "does hereby endorse and will support the expenditure of funds" for any necessary airport improvements, and that this resolution constitutes a commitment.

But petitioner misinterprets the Board's finding. The Board did not find that Sheboygan would not make the necessary airport improvements

^{20/} For example, it found in Order E-18123, March 19, 1962 (Piedmont Local Service Area Investigation) that Fredericksburg, Va., would not generate its estimated air traffic because of its location of 45 miles from Washington National airport to the north and to the airport at Richmond 55 miles to the south (mimeo. op., pp. 14-15), and therefore denied its request for separate certification for this and other reasons not here germane. In the same opinion, the Board found that Salisbury, N.C., with air service available at three airports 40-46 miles to the north and 47 miles to the southwest, would not generate its estimated air traffic because of the city's proximity to the other airports (mimeo. op., p. 17), and that Lumberton, N.C., would not achieve its forecast because of its 30-mile distance from another airport (mimeo. op., p. 21).

if service was directed there. On the contrary, it expressly recognized that the FAA would supply funds to one or the other of the communities for airport improvements, and ascribed as one reason for denying Sheboygan's application for separate service the fact that expenditures of public funds would be required by Sheboygan to make its airport adequate for Convair service (Tr 2946). The Board's finding which petitioner complains against was merely one that, vis-a-vis Manitowoc, Sheboygan had made no commitment for airport improvements, and it plainly had not.

CONCLUSION

The Board's orders should be affirmed.

Respectfully submitted,

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January, 1964

APPENDIX

Relevant excerpts from the Federal Aviation Act of 1958 (72 Stat. 737, 49 U.S.C. 1301 et seq.):

TITLE I--GENERAL PROVISIONS

* * * * *

DECLARATION OF POLICY: THE BOARD

Sec. 102. [72 Stat. 740, 49 U.S.C. 1302] In the exercise and performance of its powers and duties under this Act, the Board shall consider the following, among other things, as being in the public interest, and in accordance with the public convenience and necessity:

(a) The encouragement and development of an air-transportation system properly adapted to the present and future needs of the foreign and domestic commerce of the United States, of the Postal Service, and of the national defense;

(b) The regulation of air transportation in such manner as to recognize and preserve the inherent advantages of, assure the highest degree of safety in, and foster sound economic conditions in, such transportation, and to improve the relations between, and coordinate transportation by, air carriers;

(c) The promotion of adequate, economical, and efficient service by air carriers at reasonable charges, without unjust discriminations, undue preferences or advantages, or unfair or destructive competitive practices;

(d) Competition to the extent necessary to assure the sound development of an air-transportation system properly adapted to the needs of the foreign and domestic commerce of the United States, of the Postal Service, and of the national defense;

(e) The promotion of safety in air commerce; and

(f) The promotion, encouragement, and development of civil aeronautics.

* * * * *

TITLE IV--AIR CARRIER ECONOMIC REGULATION

CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

Certificate Required

Sec. 401. [72 Stat. 754, as amended by 76 Stat. 143, 49 U.S.C. 1371] (a) No air carrier shall engage in any air transportation unless there is in force a certificate issued by the Board authorizing such air carrier to engage in such transportation.

Application for Certificate

(b) Application for a certificate shall be made in writing to the Board and shall be so verified, shall be in such form and contain such information, and shall be accompanied by such proof of service upon such interested persons, as the Board shall by regulation require.

Notice of Application

(c) Upon the filing of any such application, the Board shall give due notice thereof to the public by posting a notice of such application in the office of the secretary of the Board and to such other persons as the Board may by regulation determine. Any interested person may file with the Board a protest or memorandum of opposition to or in support of the issuance of a certificate. Such application shall be set for a public hearing, and the Board shall dispose of such application as speedily as possible.

Issuance of Certificate

(d)(1) The Board shall issue a certificate authorizing the whole or any part of the transportation covered by the application, if it finds that the applicant is fit, willing, and able to perform such transportation properly, and to conform to the provisions of this Act and the rules, regulations, and requirements of the Board hereunder, and that such transportation is required by the public convenience and necessity; otherwise such application shall be denied.

(2) In the case of an application for a certificate to engage in temporary air transportation, the Board may issue a certificate authorizing the whole or any part thereof for such limited periods as may be required by the public convenience and necessity, if it finds that the applicant is fit, willing, and able properly to perform such transportation and to conform to the provisions of this Act and the rules, regulations, and requirements of the Board hereunder.

(3) In the case of an application for a certificate to engage in supplemental air transportation, the Board may issue a certificate, to any applicant not holding a certificate under paragraph (1) or (2)

of this subsection, authorizing the whole or any part thereof, and for such periods, as may be required by the public convenience and necessity, if it finds that the applicant is fit, willing, and able properly to perform the transportation covered by the application and to conform to the provisions of this Act and the rules, regulations, and requirements of the Board hereunder. Any certificate issued pursuant to this paragraph shall contain such limitations as the Board shall find necessary to assure that the service rendered pursuant thereto will be limited to supplemental air transportation as defined in this Act.

Terms and Conditions of Certificate

(e)(1) Each certificate issued under this section shall specify the terminal points and intermediate points, if any, between which the air carrier is authorized to engage in air transportation and the service to be rendered; and there shall be attached to the exercise of the privileges granted by the certificate, or amendment thereto, such reasonable terms, conditions, and limitations as the public interest may require.

* * * * *

(4) No term, condition, or limitation of a certificate shall restrict the right of an air carrier to add to or change schedules, equipment, accommodations, and facilities for performing the authorized transportation and service as the development of the business and the demands of the public shall require; except that the Board may impose such terms, conditions, or limitations in a certificate for supplemental air transportation when required by subsection (d)(3) of this section.

* * * * *

Effective Date and Duration of Certificate

(f) Each certificate shall be effective from the date specified therein, and shall continue in effect until suspended or revoked as hereinafter provided, or until the Board shall certify that operation thereunder has ceased, or, if issued for a limited period of time under subsection (d)(2) of this section, shall continue in effect until the expiration thereof, unless, prior to the date of expiration, such certificate shall be suspended or revoked as provided herein, or the Board shall certify that operations thereunder have ceased: Provided, That if any service authorized by a certificate is not inaugurated within such period, not less than ninety days, after the date of the authorization as shall be fixed by the Board, or if, for

a period of ninety days or such other period as may be designated by the Board any such service is not operated, the Board may by order, entered after notice and hearing, direct that such certificate shall thereupon cease to be effective to the extent of such service.

Authority to Modify, Suspend, or Revoke

(g) The Board upon petition or complaint or upon its own initiative, after notice and hearings, may alter, amend, modify, or suspend any such certificate, in whole or in part, if the public convenience and necessity so require, or may revoke any such certificate, in whole or in part, for intentional failure to comply with any provision of this title or any order, rule, or regulation issued hereunder or any term, condition, or limitation of such certificate: Provided, That no such certificate shall be revoked unless the holder thereof fails to comply, within a reasonable time to be fixed by the Board, with an order of the Board commanding obedience to the provision, or to the order (other than an order issued in accordance with this proviso), rule, regulation, term, condition, or limitation found by the Board to have been violated. Any interested person may file with the Board a protest or memorandum in support of or in opposition to the alteration, amendment, modification, suspension, or revocation of the certificate.

* * * * *

JUDICIAL REVIEW OF ORDERS

Orders of Board and Administrator subject to Review

Sec. 1006. [72 Stat. 795, as amended by 74 Stat. 255, 75 Stat. 497, 49 U.S.C. 1486] (a) Any order, affirmative or negative, issued by the Board or Administrator under this Act, except any order in respect of any foreign air carrier subject to the approval of the President as provided in section 801 of this Act, shall be subject to review by the courts of appeals of the United States or the United States Court of Appeals for the District of Columbia upon petition, filed within sixty days after the entry of such order, by any person disclosing a substantial interest in such order. After the expiration of said sixty days a petition may be filed only by leave of court upon a showing of reasonable grounds for failure to file the petition theretofore.

Venue

(b) A petition under this section shall be filed in the court for the circuit wherein the petitioner resides or has his principal place of business or in the United States Court of Appeals for the District of Columbia.

Notice to Board or Administrator; Filing of Transcript

(c) A copy of the petition shall, upon filing, be forthwith transmitted to the Board or Administrator by the clerk of the court, and the Board or Administrator shall thereupon file in the court the record, if any, upon which the order complained of was entered, as provided in section 2112 of title 28, United States Code.

Power of Court

(d) Upon transmittal of the petition to the Board or Administrator, the court shall have exclusive jurisdiction to affirm, modify, or set aside the order complained of, in whole or in part, and if need be, to order further proceedings by the Board or Administrator. Upon good cause shown and after reasonable notice to the Board or Administrator, interlocutory relief may be granted by stay of the order or by such mandatory or other relief as may be appropriate.

Findings of Fact Conclusive

(e) The findings of facts by the Board or Administrator, if supported by substantial evidence, shall be conclusive. No objection to an order of the Board or Administrator shall be considered by the court unless such objection shall have been urged before the Board or Administrator or, if it was not so urged, unless there were reasonable grounds for failure to do so.

Certification or Certiorari

(f) The judgment and decree of the court affirming, modifying, or setting aside any such order of the Board or Administrator shall be subject only to review by the Supreme Court of the United States upon certification or certiorari as provided in section 1254 of title 28, United States Code.

* * * * *

Relevant excerpts from the Administrative Procedure Act (60 Stat. 237):

DECISIONS

Sec. 8. [60 Stat. 242; 5 U.S.C. 1007] In cases in which a hearing is required to be conducted in conformity with section 7--

(a) ACTION BY SUBORDINATES.--In cases in which the agency has not presided at the reception of the evidence, the officer who presided (or, in cases not subject to subsection (c) of section 5, any other officer

or officers qualified to preside at hearings pursuant to section 7) shall initially decide the case or the agency shall require (in specific cases or by general rule) the entire record to be certified to it for initial decision. Whenever such officers make the initial decision and in the absence of either an appeal to the agency or review upon motion of the agency within time provided by rule, such decision shall without further proceedings then become the decision of the agency. On appeal from or review of the initial decisions of such officers the agency shall, except as it may limit the issues upon notice or by rule, have all the powers which it would have in making the initial decision. Whenever the agency makes the initial decision without having presided at the reception of the evidence, such officers shall first recommend a decision except that in rule making or determining applications for initial licenses (1) in lieu thereof the agency may issue a tentative decision or any of its responsible officers may recommend a decision or (2) any such procedure may be omitted in any case in which the agency finds upon the record that due and timely execution of its functions imperatively and unavoidably so requires.

(b) SUBMITTALS AND DECISIONS.--Prior to each recommended, initial, or tentative decision, or decision upon agency review of the decision of subordinate officers the parties shall be afforded a reasonable opportunity to submit for the consideration of the officers participating in such decisions (1) proposed findings and conclusions, or (2) exceptions to the decisions or recommended decisions of subordinate officers or to tentative agency decisions, and (3) supporting reasons for such exceptions or proposed findings or conclusions. The record shall show the ruling upon each such finding, conclusion, or exception presented. All decisions (including initial, recommended, or tentative decisions) shall become a part of the record and include a statement of (1) findings and conclusions, as well as the reasons or basis therefor, upon all the material issues of fact, law, or discretion presented on the record; and (2) the appropriate rule, order, sanction, relief, or denial thereof.

* * * * *

JUDICIAL REVIEW

Sec. 10. [60 Stat. 243; 5 U.S.C. 1009] Except so far as (1) statutes preclude judicial review or (2) agency action is by law committed to agency discretion--

(a) RIGHT OF REVIEW.--Any person suffering legal wrong because of any agency action, or adversely affected or aggrieved by such action within the meaning of any relevant statute, shall be entitled to judicial review thereof.

* * * * *

(c) REVIEWABLE ACTS.--Every agency action made reviewable by statute and every final agency action for which there is no other adequate remedy in any court shall be subject to judicial review. Any preliminary, procedural, or intermediate agency action or ruling not directly reviewable shall be subject to review upon the review of the final agency action. Except as otherwise expressly required by statute, agency action otherwise final shall be final for the purposes of this subsection whether or not there has been presented or determined any application for a declaratory order, for any form of reconsideration, or (unless the agency otherwise requires by rule and provides that the action meanwhile shall be inoperative) for an appeal to superior agency authority.

* * * * *

(e) SCOPE OF REVIEW.--So far as necessary to decision and where presented the reviewing court shall decide all relevant questions of law, interpret constitutional and statutory provisions, and determine the meaning or applicability of the terms of any agency action. It shall (A) compel agency action unlawfully withheld or unreasonably delayed; and (B) hold unlawful and set aside agency action, findings, and conclusions found to be (1) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law; (2) contrary to constitutional right, power, privilege, or immunity; (3) in excess of statutory jurisdiction, authority, or limitations, or short of statutory right; (4) without observance of procedure required by law; (5) unsupported by substantial evidence in any case subject to the requirements of section 7 and 8 or otherwise reviewed on the record of an agency hearing provided by statute; or (6) unwarranted by the facts to the extent that the facts are subject to trial de novo by the reviewing court. In making the foregoing determinations the court shall review the whole record or such portions thereof as may be cited by any party, and due account shall be taken of the rule of prejudicial error.

* * * * *

33
BRIEF FOR INTERVENOR

UNITED STATES COURT OF APPEALS
for the District of Columbia Circuit

No. 18, 104

SHEBOYGAN COUNTY, a municipal
corporation,

Petitioner,

v.

CIVIL AERONAUTICS BOARD,

Respondent,

MANITOWOC COUNTY, a municipal
corporation,

Intervenor.

**ON PETITION TO REVIEW ORDERS OF THE
CIVIL AERONAUTICS BOARD**

United States Court of Appeals
for the District of Columbia Circuit

FILED JAN 6 1964

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ON PETITION TO REVIEW ORDERS OF THE
CIVIL AERONAUTICS BOARD

COUNTER STATEMENT OF THE CASE

The Petition to this Court arises out of an investigation instituted by the Civil Aeronautics Board on February 14, 1962 to determine whether Sheboygan County Airport or Manitowoc County Airport or separate service to each would better serve the public need for air service to the area.

(Opinion of February 14, 1962, Tr. 1273). The Board initiated this investigation upon consideration of the record developed, after notice and hearing, on an earlier application of Petitioner, Sheboygan County, for air service through its airport.

The initial hearings on the application of Petitioner were devoted primarily to the question of the need of Sheboygan travellers for local service air transportation on the system of North Central Airlines to their primary gateways, Milwaukee and Chicago ((Initial Decision) Tr. 1168). The parties primarily interested in that phase of the case, Sheboygan County, North Central Airlines, and Bureau Counsel, adduced evidence pertaining to the air traffic potential of Sheboygan. The CAB Hearing Examiner, on the basis of the record there presented and his conclusion that service for Sheboygan through an airport other than its own was not involved, determined that Sheboygan would generate sufficient air travel to require its certification on North Central's system to receive local airline service to Milwaukee and Chicago on a route extending from Minneapolis/St. Paul through Wisconsin to those points.

North Central Airlines, objecting to this decision, argued to the Civil Aeronautics Board in its review of this first Examiner's Decision, that service should not be certificated to another point on its system in East Central Wisconsin in view of the number of communities already served in that area (Brief, Tr. 1195-99; Oral argument, Tr. 1228-29). The Civil Aeronautics Board, without ruling upon Sheboygan's application or the

Examiner's Initial Decision, concluded that an inquiry of wider scope was necessary and, accordingly, it remanded the proceeding to the Hearing Examiner for further consideration of Sheboygan's application in light of the broader issues posed in its Order. The Board, noting that the Intervenor, Manitowoc, had not been a party to the initial proceeding, made Manitowoc a party (Tr. 1278). Later the City of Two Rivers and the State of Wisconsin were allowed to intervene in the Board proceeding (Tr. 1309; 1329), the former making a joint presentation below with the City and County of Manitowoc.

At the hearings conducted by the Hearing Examiner pursuant to the remand, additional evidence was adduced by Bureau Counsel, North Central and Sheboygan as well as by the State of Wisconsin and by Manitowoc--Two Rivers.

Thereafter the Hearing Examiner entered his Initial Decision, accepting the evidence of Sheboygan and Bureau Counsel as to the traffic potential involved, finding that service through the Sheboygan Airport would generate more traffic from Sheboygan than North Central had historically generated at Manitowoc (Initial Decision, Tr. 2696); that a substantial portion of traffic historically generated at Manitowoc would use the Sheboygan Airport (Ibid., Tr. 2698); and that other factors being substantially equal, North Central's economic position would be enhanced and the Federal Government's subsidy obligation decreased by serving the entire area through Sheboygan. He therefore concluded that the public convenience

and necessity dictated the designation of the Sheboygan County Airport to serve the Sheboygan-Manitowoc area (Ibid., Tr. 2699).

On review of this Examiner's Decision by the Civil Aeronautics Board, the Board concluded that the traffic forecasts relied upon by the Examiner were overstated (Tr. 2936-37) and the Board determined that the forecasts submitted by North Central Airlines and by Manitowoc County were more realistic (Tr. 2936;2940).

These forecasts, together with the other evidence of record, dictated the conclusion that Sheboygan could not economically support air service through its own airport and that the designation of Sheboygan Airport to serve the Sheboygan-Manitowoc area would not serve the public convenience and necessity as well as the continuation of service at Manitowoc (Tr. 2940-41; 2943).

SUMMARY OF ARGUMENT

The Petitioner's claim that the Board's findings were not supported by substantial evidence is, in reality, nothing more than argument that the Board close to rely upon evidence that led to conclusions adverse to Sheboygan County. The critical question before this Court is purely a factual one - one on which the Court could not properly substitute its judgment for the Board's even were it to appear, contrary to fact, that the Board's judgment was questionable; in fact, the Board's judgment on this critical question was supported by extensive evidence and testimony. That critical question is the traffic forecast.

The Board's Hearing Examiner, in findings which the Board specifically rejected but which the Petitioner here says this Court must find to have been correct, accepted traffic forecasts submitted by Bureau Counsel and Sheboygan that measured, at best, the total air transportation potential of the Sheboygan area. The Examiner rejected, with the observation that such evidence was "not probative", evidence adduced by Manitowoc County and North Central Airlines which established that the total air traffic potential of the Sheboygan area would not use the air service contemplated at the Sheboygan Airport, but would instead, in substantial part, use surface transportation to other nearby airports, primarily Milwaukee and Chicago, for the markedly superior convenience of air service obtained out of those airports. The Board, employing the expertise of its years of reviewing the local service airline systems and the needs of smaller cities for air transportation, specifically rejected the forecasts and forecast techniques employed by the parties on whose submissions the Examiner relied.

Essentially, the weakness in the forecasts of both Bureau Counsel and the Petitioner was that both considered the Sheboygan traffic potential in a vacuum, ignoring the existence of other air service available to Sheboygan travellers and failing to make adjustment for what is called "drainage" of traffic potential to other, alternative airports, an adjustment commonly referred to herein as a "proximity" adjustment. The Board determined that such adjustments were necessary in light of the evidence

adduced by the Intervenor, Manitowoc, showing extensive "drainage" of its traffic potential to other airports even with service at Manitowoc's airport and by North Central showing the impact of proximity to major airports at numerous points on its local service system.

The Petitioner contends, however, contrary to the Board's conclusions that air service at Milwaukee is "inconvenient" by virtue of the 1 hour and 45 minute driving time from Sheboygan to Milwaukee Airport; and that surface transportation is inadequate because there is no direct common carrier service that can be employed. These are nothing but a priori assumptions. The Board here has measured "convenience" and "adequacy" not in terms of some pre-conviction as to what is or is not convenient, but in terms of what travellers do — what choices they make when faced with alternatives. The record here reflects the fact that, however undesirable such a surface trip may seem to be, travellers in large numbers will in fact prefer the surface trip by private car to obtain the superior service (in terms of connections, frequency of schedules and so forth) at Milwaukee to the two daily round trips that were proposed to be available at Sheboygan.

The Petitioner also contends that one of the predicates for the Board's rejection of the Sheboygan and Bureau Counsel forecasts — namely, the finding of similarity between Sheboygan and Manitowoc-Two Rivers — is erroneous because Sheboygan area population is larger than Manitowoc-Two Rivers. Aside from the fact that Petitioner did not raise this objection before

the Board by exception to the Examiner's Initial Decision, wherein these findings adopted by the Board were first made, the record establishes, first, that the Board (and the Examiner) considered the population difference relied upon by Petitioner and found it to be "little" - no significant difference for the purpose of this case; second, that the additional "urbanized" population referred to by Sheboygan would not use the Sheboygan Airport in any event.

The Board did not, in its Decision, find that Sheboygan "needs service" and its determination that the Manitowoc Airport should be designated as "Manitowoc-Sheboygan" did not represent a determination that Sheboygan needed air service. Rather, the Board concluded that "benefits . . . should result from the use of the names of both Manitowoc and Sheboygan in the station designation" Consistent with its practice in numerous local service cases, the Board made this designation solely to better describe the service being continued at Manitowoc Airport.

The Board's Decision in this case does not reflect the application of new, unique or retroactive generalized standards of public convenience and necessity, either the "use it or lose it" policy or the "regional airport policy". The Decision reflects the conventional style of determination of public convenience and necessity employed throughout its history in dealing with local airline service problems.

Finally, the Board did not err in its finding that the record does not indicate that Sheboygan has undertaken or committed itself to undertake airport improvements. While the finding is not a critical decisional one,

the record shows that the Petitioner has not undertaken airport improvements and has not "committed itself" beyond a self-serving declaration of its governing body. Under Wisconsin law, to undertake airport improvements entails an application to the Wisconsin State Aeronautics Commission, a procedure not undertaken by Sheboygan. Further, commitment is ultimately determined by an appropriation of money. Manitowoc had taken such steps, Sheboygan had not.

ARGUMENT

I. THE BOARD'S BASIC FINDINGS OF FACT WERE NOT ONLY SUPPORTED BY SUBSTANTIAL EVIDENCE BUT WERE THE ONLY FINDINGS POSSIBLE ON THE RECORD.

The thrust of Petitioner's brief in this case is that certain basic findings of the Board were not supported by substantial evidence and that the Board's ultimate findings were not supported by sufficient basic findings. This, then, is a "substantial evidence" case where the questions posed to this Court go to what facts were in the record and what facts were relied upon by the Board. The ultimate factual question faced by the Board in its consideration of this case, in somewhat simplified terms, was whether the Sheboygan Airport would generate sufficient traffic to justify the expense and subsidy involved in service by North Central Airlines. The Board concluded that Sheboygan would not generate sufficient traffic, reversing the contrary finding of its Hearing Examiner.

A. The Board's Estimate of Traffic Potential of the Sheboygan County Airport was Correct.

The evidence before the Board in this case on the ultimate factual question was synthesized by each of four parties to the case in separate "traffic forecasts". The Petitioner's traffic forecast was predicated on surveys conducted by witnesses for the Petitioner of the then current utilization of air transportation by Sheboygan area businesses; that survey data was adjusted by various factors to produce a forecast of 8,000 passengers annually (Ex. SHE-2). Bureau Counsel's forecast was the product of a statistical analysis of traffic generated under certain conditions at numerous points served by local service carriers in the United States (the analysis is known as the "passenger generating index"); this technique produced a forecast of 9,160 passengers (Ex. BER-R-2). North Central's forecast was based on an experienced ratio of passengers generated to population, adjusted for the proximity of Sheboygan to Milwaukee; the unadjusted estimate was 7,228 passengers, and an adjusted total of 4,324 (Brief to Board, p. 4; Ex. NOR-122). Manitowoc's forecast of Sheboygan traffic was predicated on Sheboygan's estimate of total potential, adjusted on the basis of a survey by Manitowoc showing the ratio of air travellers from the Manitowoc area using the Manitowoc Airport compared with alternative airports; this technique produced a forecast of 4,921 passengers (Ex. MTR-T-1, Tr. 2202). Each forecast was, of course, supported by collateral testimony and exhibits in varying degrees.

Faced with these divergent forecasts, the Examiner chose to rely on Bureau Counsel's, considering it to be supported by Sheboygan's.

He rejected the forecasts of Manitowoc and North Central (Tr. 2672) with the observation that

"Sheboygan's alleged drainage loss is only an estimate on the part of Manitowoc and this estimate is not supported by probative evidence."
(Tr. 2677)

The Board, on review, concluded that the foundation for the forecasts of Sheboygan and Bureau Counsel, which the Examiner had accepted, was invalid. With respect to Bureau Counsel's technique (the passenger generating index), the Board in its opinion identified the specific reasons for rejecting the forecast (Opinion, Tr. 2936-37 and footnotes 13-14). These reasons were supported by extensive testimony of three of Manitowoc's witnesses, as well as analyses demonstrating that the statistical methods employed were invalid. (Ex. MTR-T-1, Tr. 2200-02; MTR-T-2, Tr. 2235-36; MTR-T-5, Tr. 2256-58; and MTR-T-1, Tr. 2204-08).

In rejecting this technique, the Board chose to confine its judgment to the particular facts of this case (Opinion, Tr. 2936, footnotes 13 and 14) without determining whether the technique would be invalid under all circumstances. In short, the Board concluded that the passenger generating index could not be used in a case such as this where the proximity to a nearby airport must be reflected; it did not determine whether the forecasting method was unacceptable under circumstances where the proximity problem does not exist.

The Board similarly found "serious deficiencies" in the foundation of Sheboygan's forecast and, while it did not burden its opinion with a detailed recitation of the deficiencies, its opinion cites a record analysis of those deficiencies which makes clear and certain the basis for rejecting the forecast (Opinion, Tr. 2936, footnote 16).

As the Board clearly finds in its Opinion, the deficiencies in the forecasts of both Sheboygan and Bureau Counsel were their failure to account for the impact on the potential use of the Sheboygan Airport of the availability of extensive and frequent services at the Milwaukee Airport. The Examiner adopted those forecasts even in the face of evidence submitted by the Intervenor showing that approximately 45% of Manitowoc's air travellers used airports other than Manitowoc's (primarily Milwaukee) to obtain air service (Ex. MTR-R-1, 43; MTR-T-1, Tr. 2194), testimony of three Manitowoc witnesses, all with extensive experience as transportation analysts, that Sheboygan, being closer to Milwaukee, would experience even greater "drainage" than Manitowoc (Tr. 2199; 2224; 2256-58), the testimony of North Central Airlines Vice President of Traffic and Sales to the same effect (Tr. 2270-71), and the exhibits submitted by North Central Airlines showing the impact of "proximity" to alternative airports on traffic generation as related to population at other points on its extensive system (Ex. NOR-201, 202). This solid, factual evidence was supported by analyses of driving times and distances for Sheboygan travellers (Ex. MTR-450, 460, Tr. 2235-36) going to various destinations, correlated with airline schedules

out of Milwaukee, demonstrating the greater convenience of Milwaukee air services for Sheboygan travellers under most circumstances. The Board chose to accept this evidence over Sheboygan's and Bureau Counsel's, both of which had been seriously discredited.

The Petitioner has obviously been misled in its assessment of the Board's findings by virtue of the fact that in the first phase of this proceeding before the Board, when the forecasts of Sheboygan and Bureau Counsel were not subjected to the scrutiny of a vitally interested adversary party, appeared to produce very favorable estimates of rather remarkable consistency. The forecasts adopted by the Examiner in the earlier phase of the case, readopted in his Initial Decision in the remanded phase, do not acquire any validity out of repetition.

B. The Communities That Would Be Served By The Two Airports Involved Are Similar.

Petitioner's primary allegation of factual error is in the Board's finding that

"The evidence shows that there is no significant difference between the communities with respect to population and economic indices."

Petitioner contends that there is a significant difference in population.

The Petitioner has waived the error alleged in this finding of the Board by failing to take exception to the findings of the Examiner on the same questions, which findings were adopted by the Board. The Examiner's

Initial Decision contains the detailed support for the conclusion of the Board expressed above. Specifically, the Examiner found

"Most economic indices show Sheboygan to be slightly larger than Manitowoc-Two Rivers, although the latter two cities appear to be growing somewhat faster than Sheboygan."
(Initial Decision, Tr. 2667)

After citing population statistics on the size of the respective counties and urban areas, the Examiner noted that

"If the populations of several nearby communities . . . are added to the population of Sheboygan, the latter urbanized area is a little larger than Manitowoc-Two Rivers." (Emphasis supplied) (Ibid.)

From his discussion of the "customary economic, population, and other statistical data", he concluded that

". . . the record fails to reveal any significant difference in the economic vitality of the two regions. The important controversy of record related to the air traffic potential of these two respective urban areas." (Ibid., Tr. 2669)

Having failed to except or object to these findings in any way upon review of the Initial Decision, Sheboygan has effectively waived its right to bring this matter before the Court.

Nevertheless, record shows that the communities under consideration are similar and fails to reflect any showing that a different foundation in the way of population and/or economic indices should have been used by the Examiner and the Board.

The Petitioner's first error is in assuming at all — and it is purely an assumption — that what is involved are "cities", "counties", "urbanized areas" or any other jurisdictional unit. What is of concern to the Board is the air transportation market that would be served by the respective airports. The Intervenor, together with the cities of Manitowoc and Two Rivers, introduced detailed evidence showing that the population of both cities, which are located on either side of the Manitowoc County Airport, regularly used the airport and that they were from a physical, economic and social entity justifying their consideration as a single air transport market (Tr. 2188-90). No similar evidence was adduced on behalf of Petitioner to define the dimensions of the market that would be served by its airport.

The Petitioner relies heavily on an extensive quotation from testimony of one of the Intervenor's witnesses to suggest that the air transport market that would be served by the Sheboygan Airport was larger than the population of the City of Sheboygan alone, including certain towns that would increase the population total considered from 45,747, to 56,460. As we have already noted, the Examiner found even this complex to be only ". . . a little larger than Manitowoc-Two Rivers", a finding adopted by the Board. More important, however, is the fact that the witness whose testimony was quoted by Petitioner did not purport to be testifying on the dimensions of the market that would be served through the Sheboygan County Airport. The

witness made clear, that his testimony on the scope of the Sheboygan market only pertained "in general principle." He went on to indicate that another witness was testifying on what communities in the Sheboygan vicinity would be conveniently served by Sheboygan's airport:

"We have an extensive piece on that (in) Mr. Dempsey's testimony. He is familiar with the area and I asked him to do a piece on driving times, alternative driving, and so forth, from points in Sheboygan County and I would stand on what he indicates there." (Tr. 1788; see also, Tr. 2188).

That witness's testimony was, with respect to the outlying urban areas referred to by Petitioner here, as follows:

"In view of small difference in transit time air via SHE (Sheboygan) and highway direct to MKE (Milwaukee) and the fact that Highway is cheaper, most passengers will continue to drive to MKE (Milwaukee) as they presently do to have auto available for return trip. Passengers must shorten their working time at destination in order to return to SHE (Sheboygan Airport) same day avoiding night lodging at ORD (Chicago Airport) or MKE (Milwaukee Airport)." (Tr. 2236)

This was supported by the witness's detailed analysis of the surface time versus air time, correlated to schedules available at Milwaukee (MTR-T-2, Tr. 2235-36).

Petitioner's reliance, therefore, on the extensive quotation in its brief is misplaced, for rather than proving that the Board has made some error, it calls to the Court's attention the precise facts of record that irrefutably support the Board's findings.

In any event, the record establishes beyond a doubt in a whole series of exhibits setting forth the population and economic characteristics of the two counties and, the cities that the communities are "similar" (Ex. MTR-2. 30 to 2. 53) — not identical — but similar so that the great disparity between traffic forecast for Sheboygan and that historically generated by Manitowoc defies the Board's experience and common sense (Opinion, Tr. 2935-36).

II. THE BOARD'S SUBSIDIARY FINDINGS AND ULTIMATE CONCLUSIONS WERE NOT ERRONEOUS

Petitioner's brief alleges a series of errors in the Board's treatment of a number of subsidiary issues and in certain of its ultimate findings, as well as in the procedures employed for the disposition of this case.

A. Sheboygan Was Not Committed To Undertake Airport Improvements

Sheboygan attacks the Board's observation that the record does not indicate whether the community has undertaken or committed itself to undertake airport improvements, and claims that this allegedly erroneous finding "casts the prejudicial shadow on the perspective of the Board and its other basic findings." The Petitioner apparently believes that even though the alleged error is not a critical one, it reflects some fundamental misconception of the issues in the case. However, the finding was merely background that in no way led to any ultimate conclusion nor did the Board rest its decision adverse to Sheboygan in any way on the latter's failure to commit itself to airport improvements. The failure of the community to commit itself

might well be considered significant in light of the fact that the Petitioner was previously certificated by the Board for local airline service, but failed to provide an airport adequate for airline operations and consequently lost its earlier certification (See Initial Decision, Tr. 2661-62).

In any event, the finding itself is clearly correct. Petitioner insists that the only means for a community to commit itself to airport improvement is by resolution of its governing body. The fact is, however, that under Wisconsin law (Chapter 114 of the Wisconsin Statutes), a community seeking to build or expand an airport must go through a whole series of statutory steps, none of which were even initiated by the Petitioner. Until these steps have been taken, there is no commitments whatever to expansion and there was no basis for the Board to assume that an improved airport would be made available. Indeed, the most significant action an airport owner can take to "commit" itself to airport improvement is the appropriation of funds for such improvement. The record in this case reflected the fact that Manitowoc County had initiated such action (Ex. MTR 5.20-5.21), even to appropriating funds, while Sheboygan had not.

B. The Board Did Not Find That Sheboygan "Needs" Air Service

The Petitioner also attacks the Board's ultimate conclusions that "the public convenience and necessity require the amendment of the certificate of North Central . . . to redesignate Manitowoc . . . as Manitowoc-Sheboygan. . . ."

According to Petitioner, this ultimate conclusion somehow entails a subsidiary finding that "the Sheboygan air traveller has some needs not now being met!" There is, however, nothing in the Board's opinion to substantiate this view. The sole explanation provided by the Board for its inclusion of the name "Sheboygan", hyphenated with Manitowoc in North Central's certificate, appeared in an introductory footnote which merely stated that benefits should result from the use of both names (Opinion, Tr. 2933, footnote 6). Its supporting finding was that "the public convenience require that service to the Manitowoc/Sheboygan area continue to be provided at the airport at Manitowoc" (Tr. 2943).

Numerous decisions of the Board in recent years have made clear that the "benefit" resulting from the addition of city names to an existing certificated point is the identification of a more widespread area in airline advertising of its service. Carriers are not permitted to hold out air transportation to any points other than those named in their certificate. Consequently, for example, North Central was not permitted in its advertising, schedules, or time tables to show that passengers could reach Sheboygan via Manitowoc. The action of the Board will permit North Central so to advertise in this case and may provide some benefit to air travellers.

Contrary to recognizing some new need, the Board's finding that service to the area should "continue" through Manitowoc Airport confirms

the existing situation and the redesignation of the point as Manitowoc-Sheboygan serves only to describe what is already a fact.

C. Deferral of the Board Decision is Not in the Public Interest.

In a passing footnote reference, Petitioner suggests that the Board's procedure in evaluating the needs of the Manitowoc and Sheboygan areas separate from the surrounding areas was erroneous and that the Board should have included Manitowoc, Two Rivers and Sheboygan in a broader investigation since initiated by the Board covering North Central's service to several other cities elsewhere in Wisconsin. This position is an anomalous one for the Petitioner inasmuch as, in an earlier stage in this proceeding Sheboygan opposed this very type of relief. After the Board's remand of the original proceeding to the Examiner, and its inclusion of Manitowoc in the broader proceeding, Manitowoc moved to have consideration on the Manitowoc-Sheboygan area included in the anticipated Wisconsin-wide proceeding (Tr. 1296-1308). Sheboygan protested this request vociferously (Tr. 1311-16) and the Hearing Examiner denied Manitowoc's motion.

Sheboygan made no such request as it now makes while it was before the Board, having raised this question for the first time in a Petition for Reconsideration of the Board's Decision. Sheboygan does not allege that either Sheboygan or Manitowoc would properly be considered part of the market area of any of the points at issue in the Wisconsin-wide investigation or that it has not had the opportunity for a full hearing on any and every matter that it wished to put into the record of this proceeding.

We emphasize this point only to obviate the possibility of any further delay in the final resolution of this problem which, from February 14, 1962 to June 17, 1963, resulted in a "freeze" of federal funds for the Manitowoc Airport improvement program and a consequent delay in the introduction of improved air service at Manitowoc.

D. The Decision of the Board in this Case does not Involve Retroactive Action.

The Petitioner alleged that it was deprived of due process by the after-the-fact application of the regional airport policy. The action of the Board in this case, however, was entirely prospective, not retroactive. To the extent that there exists any judicial restraint against retroactive agency action, the doctrine pertains to a change of policy affecting action or conduct already past. It does not in any way preclude changes of policy with respect to rights, privileges or licenses for the future.

Moreover, Petitioner had had the fullest possible hearing before the agency, with the right to introduce evidence and to rebut and cross-examine the evidence adduced by other interested parties. It had every opportunity to attack the policies supposedly being applied in this case and to urge the adoption of the different policies or concepts.

The same "retroactivity" argument, with respect to the same "policy", was made to the 4th Circuit in Airport Commission of Forsyth County v. C.A.B., 296 F. 2d. 95 (4th Cir., 1961) and rejected there; it should be rejected here, as it was there.

The decision of the Board in this case is not, in fact, a product of any new policy nor was it even the product of the Board's so-called "regional airport policy". On the contrary, this decision was typical of the Board's decisions in recent years of applications by communities such as Sheboygan for first air service. Here, as in several recent decisions of the Board, the application was denied primarily because convenient air service is available to Sheboygan at a nearby major terminal, Milwaukee. See, e. g., Piedmont Local Service Area Investigation, Order E-18123, March 19, 1962 (Mimeo., pp. 14-15, 21). The application was denied, as has been true in many cases, notwithstanding the fact that forecast traffic volume exceeded the Board's standard for retaining air service once certificated. Sheboygan has not shown and indeed has not endeavored to show with any evidence or argument of any kind that the evaluation of its case by the Board has been different from the Board's evaluation of communities similarly situated. The fact that there are other cities with air service that generate less traffic than that forecast for Sheboygan is not, of itself, significant. While traffic generated, in terms of numbers of passengers, has been a critical decisional fact in this case, where the primary issue is the relative potential of two nearby cities, in many instances the Board's inquiry into public convenience and necessity entails consideration of distance to be travelled and other factors. Thus, for example, a city generating less traffic than forecast for Sheboygan might well be found to require air service if it

is 200 or 300 miles from its primary gateway, at the same time a city like Sheboygan, located close to a major gateway is denied such service. Such results, while superficially discriminatory when viewed solely in terms of numbers of passengers, is not in terms of the different circumstances affecting public convenience and necessity in such situations.

III. CONCLUSION

Petitioner has contended that the Board's findings and conclusions are not supported by substantial evidence and that its findings were not adequately expressed. The Board's Opinion cites the specific evidence it relied upon in resolving the salient issues, all of which not only supported but necessitated the Board's findings, and went on to explain specifically why it rejected the evidence to the contrary on which Petitioner, relying upon the findings of the Examiner rejected in detail by the Board, rests its case. This Court has made it abundantly clear that the Examiner's findings, when dealing with subsidized air services, obtain no special sanctity, Southeastern Aviation, Inc. v. C. A. B., 108 App. D. C. 394, 283 F. 2d 189 (1960). The instant case, while presenting somewhat different issues, presents another facet of the type of airport problem and substantial evidence presented in Airport Commission of Forsyth County v. C. A. B., 296 F. 2d 95 (4th Cir., 1961), where the Fourth Circuit emphatically rejected objections of similar character to the Board's decision. So clear is the Board's Opinion here, in contrast to the rare instance where this Court has struck down the Board's

findings, e.g., Braniff Airways, Inc. v. C.A.B., 113 App. D.C. 132, 306 F. 2d 739 (1962), that out brief has been devoted solely to an elaboration of the facts of record relied upon by the Board. The Board's Opinion here is virtually a model of specificity and clarity that not only reflects the evidence of record accurately, but compels this Court's approval.

The Intervenor, Manitowoc County, therefore prays this Court to affirm the Board's decision in this case and to deny the relief requested by Petitioner.

Respectfully submitted

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